

**EIGHTY-FIFTH DAY**

(Tuesday, June 13, 1939)

The Senate met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by President Stevenson.

The roll was called, and the following Senators were present:

Aikin	Moore
Beck	Nelson
Brownlee	Pace
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Graves	Small
Hardin	Spears
Head	Stone
Hill	of Galveston
Isbell	Stone
Kelley	of Washington
Lanning	Sulak
Lemens	Van Zandt
Martin	Weinert
Metcalf	Winfield
Moffett	

The invocation was offered by the Chaplain.

On motion of Senator Aikin, and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

**Petitions and Memorials**

The President laid before the Senate, and had read, a letter in the nature of a petition from Richard Lamb, of Austin, Texas, relative to a proposed amendment to the Constitution.

**Report of Conference Committee on House Bill 195**

Senator Burns submitted the following report of the Conference Committee on H. B. No. 195, and asked that the report be considered at this time.

Austin, Texas,  
June 5, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Hon. R. Emmett Morse, Speaker of the House of Representatives.

Sirs: We, your Conference Committee, appointed to adjust the differences between the Senate and House on H. B. No. 195, have had the same under consideration, and beg

leave to report it back to the Senate and House with the recommendation that said H. B. No. 195 be adopted in the form hereto attached.

Respectfully submitted,

BURNS,  
PACE,  
GRAVES,  
HARDIN,  
AIKIN,

On the part of the Senate.

LOGGINS  
HARRELL,  
MORRIS,  
VALE,  
McNAMARA,

On the part of the House.

By Loggins. H. B. No. 195.

**A BILL****TO BE ENTITLED**

An Act regulating the practice of chiropody; providing the terms of members of the Board of Chiropody Examiners; prescribing their duties; providing for the examination and licensing of applicants to practice chiropody and the recording of licenses issued to chiropodists; providing for annual registration; providing civil and criminal remedies and penalties for violation of the laws regulating the practice of chiropody; amending Articles 4568, 4569, 4570, 4571 and 4572 of the Revised Civil Statutes of Texas of 1925; and also amending Article 778 of the Penal Code of Texas, 1925; and amending Chapter 11, Title 12 of the Penal Code of Texas, 1925, by adding thereto a new Article, to be known as Article 778-a; and otherwise regulating and protecting public health, as dealt with in the profession of chiropody, as in the Act set out; repealing all laws and parts of laws in conflict therewith, and declaring certain legislative intent with respect to this Act; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. Article 4568 of the Revised Civil Statutes of Texas of 1925 is hereby amended so that the same shall hereafter read as follows:

"Article 4568. The State Board of Chiropody Examiners shall consist of six (6) reputable practicing chiropodists who have resided in the State of Texas, and who have been

actively engaged in the practice of chiropody for a period of five (5) years immediately preceding their appointment, none of whom shall be members of the faculty of any chiropody college, or the chiropody department of any medical college or shall have a financial interest in such colleges. The term of office of each member of said Board shall be six (6) years, except as to the first Board appointed hereunder. Two (2) of its members shall serve for a period of two (2) years; two (2) of its members shall serve for a period of four (4) years; and two (2) of its members shall serve for a period of six (6) years. The respective terms of the first members so appointed shall be designated by the Governor so appointing them, within thirty (30) days after this Act becomes effective. The six (6) members of said Board shall be appointed by the Governor of this State, two (2) to serve two (2) years, two (2) to serve four (4) years, and two (2) to serve six (6) years, or until their successors have been appointed and qualified. Thereafter, at the expiration of the term of each member first appointed, his successor shall be appointed by the Governor of this State and he shall serve for a term of six (6) years, or until his successor shall be appointed and qualified. The members of the State Board of Chiropody Examiners shall, before entering upon the duties of their offices, qualify, by subscribing to, before a notary of public or other officer authorized by law to administer oaths, and filing with the Secretary of State, the Constitutional oath of office. They shall, as soon as organized, and biennially thereafter in the month of January, elect from their number a president, vice-president and secretary-treasurer. The secretary-treasurer, before entering upon his duties, shall file a bond with the Secretary of State for such sum as will be twice the amount of cash on hand at the time the bond is filed; provided, however, that the amount of said bond shall, in no case, be less than Five Thousand Dollars (\$5000). Said bond shall be payable to the Governor of this State, for the benefit of said Board; shall be conditioned upon the faithful performance of the duties of such officer; and shall be in such form as may be approved by the Attorney General of this State; and shall be executed by a surety company, as surety, and be approved by

the State Board of Chiropody Examiners.

"Said State Board of Chiropody Examiners shall hold meetings at least twice a year and special meetings when necessary at such times and places as the Board deems most convenient for applicants for examinations for license. Due notice of such meetings shall be given by publication in two (2) daily newspapers as may be selected by the Board. Special meetings shall be held upon request of a majority of the members of the Board, or upon the call of the president. Four (4) members of the Board shall constitute a quorum for the transaction of business and should a quorum not be present on the day appointed for any meeting, those present may adjourn from day to day until a quorum be present.

"The Board shall adopt all reasonable or necessary rules, regulations, and bylaws, not inconsistent with this Act, the laws of this State, or of the United States, to govern its proceedings and activities, the regulation of the practice of chiropody and the enforcement of this Act. The Board shall have power to appoint committees from its own membership, the duties of which shall be to consider such matters pertaining to the enforcement of this Act and the regulations promulgated in accordance therewith as shall be referred to said committees, and to make recommendations to the Board with respect thereto; to employ the services of stenographers, inspectors, and other necessary assistants in the carrying out of the provisions of this Act. The Board, any committee, or any members thereof shall have the power to issue subpoenas and to compel the attendance of witnesses and the production of books, records, and documents, to administer oaths and to take testimony concerning all matters within its or his jurisdiction. The Board shall not be bound by the strict rules of procedure or by the laws of evidence in the conduct of its proceedings, but the determination shall be founded upon sufficient legal evidence to sustain it. The Board shall have the right to institute an action in its own name to enjoin the violation of any of the provisions of this Act or the regulations promulgated in accordance therewith, and in such connection a temporary injunction may be granted. Said action for an injunction shall be

in addition to any other action, proceeding or remedy authorized by law. The Board shall adopt a seal, which shall be used on official documents. The design of the seal shall be similar to the seal of other departments of the State, in that it shall contain the five-pointed star with a circular border, and within the border shall contain the words, 'Texas State Board of Chiropody Examiners.' The secretary-treasurer of the Board shall keep a correct record of all the proceedings of the Board, and of all moneys received or expended by the Board, which record shall be open to public inspection at all reasonable times. The records shall include a record of proceedings relating to examination of applicants, and the issuance, renewal, or refusal of certificates of registration; and they shall also contain the name, age, known place of residence, the name and location of the school of chiropody from which he holds credentials and the time devoted to the study and practice of the same, together with such other information as the Board may desire to record. Said record shall also show whether applicants were rejected or licensed and shall be prima facie evidence of all matters therein contained. A certified copy of said record, with the hand and seal of the secretary of said Board, shall be admitted as evidence in all Courts. Every license and annual renewal certificate issued shall be numbered and recorded in a book kept by the secretary-treasurer of the Board. The records shall be kept by the secretary-treasurer of the Board, and such records shall be audited biennially during the month of January by a certified public accountant, a report of the findings of such audit shall be made to the Governor of this State, and a copy of said report shall be delivered to the secretary-treasurer of the Board, who shall retain same as a permanent record of the office.

"The Board shall cause the prosecution of all persons violating any of the provisions of this Act and may incur the expense reasonably necessary in that behalf."

Sec. 2. Article 4569 of the Revised Civil Statutes of Texas of 1925 is hereby amended so that the same shall hereafter read as follows:

"Article 4569. It shall be the duty of the Board to examine all applicants for license to practice chiropody

in this State, and the Board shall examine and grade all papers submitted by such applicants and report to such applicants, within sixty (60) days from the date of any meeting of said Board, and said report shall give to such applicant the grades made by such applicant upon each and every subject upon which he or she was examined by said Board. Each person applying for examination shall pay to the Board a fee of Thirty-five Dollars (\$35) at least fifteen (15) days before the date set by the Board for the examination, and upon passing a satisfactory examination before said Board on subjects pertaining to chiropody, shall be granted a license to practice chiropody in this State. The subjects one must be examined in are anatomy, chemistry, dermatology, diagnoses, materia-medica, pathology, physiology, chiropody, bacteriology, and mechanical orthopedics, limited in their scope to the treatment of ailments of the human foot, and the examinations are to be written in the English language. Any applicant failing in the examination and being refused a license shall be entitled to a re-examination, at the next regular session of said Board within one year. Any applicant failing on re-examination shall be required to pay an additional fee and shall be required to be re-examined in all subjects."

Sec. 3. Article 4570 of the Revised Civil Statutes of Texas of 1925 is hereby amended so that the same shall hereafter read as follows:

"Article 4570. All applicants for license to practice chiropody in this State, not otherwise licensed under the provisions of law, shall present satisfactory evidence to the State Board of Chiropody Examiners that such applicants have attained the age of twenty-one (21) years, are of good moral character and are free of all contagious and communicable diseases, and furnish a certified certificate of health to that effect, and are citizens of the United States of America and who are graduates of at least a sixteen (16) unit high school, whose credits are acceptable without condition for matriculation at the State University of the State in which applicant's high school graduation was attained. The applicant shall present satisfactory evidence of graduation from a bona fide reputable school of chiropody in the form of a diploma which has conferred the de-

gree of Doctor of Surgical Chiropody, to the State Board of Chiropody Examiners. Such chiropody schools may be considered reputable, within the meaning of this Act, whose entrance requirements and course of instruction are as high as those adopted by the University of Texas, and whose course of instruction shall embrace at least four (5) terms of at least eight (8) months each, and which meets the requirements of the State Board of Chiropody Examiners. Provided, however, the Board may, in its discretion, accept applicants from chiropody schools whose course of instruction embraces at least three (3) terms of at least eight (8) months each; and provides for one term of eight (8) months instruction in a recognized college of liberal arts or sciences shall be approved by this Board."

Sec. 4. Article 4571 of the Revised Civil Statutes of Texas of 1925 is hereby amended so that the same shall hereafter read as follows:

"Article 4571. On or before the first day of September, 1939, and on or before September 1st of each succeeding year, every chiropodist licensed in this State shall pay to the Secretary-Treasurer of the State Board of Chiropody Examiners an annual renewal fee of Ten Dollars (\$10) for the renewal of his license to practice chiropody for the current year. On receipt of said renewal fee the Board shall issue an annual renewal certificate bearing the number of the license, the year for which renewal and other information from the records of said Board that said Board may deem necessary. When a chiropodist shall fail to pay his annual renewal fee by March 1st, it shall be the duty of the Board of Chiropody Examiners to notify such chiropodist at his last known address, by mail, that said annual renewal fee is due and unpaid. Thirty (30) days after the date of mailing said notice, it shall be the duty of the Board under this Act to declare the license suspended or revoked for nonpayment of the annual renewal fee. The Board shall notify the District Clerk of the County in which such license may have been recorded and such clerk, upon receipt of notification from said Board, shall enter upon the chiropody register of such county the fact that such license is suspended or revoked for non-payment of the annual renewal fee, and shall notify the Board

in writing that such entry has been made. Practicing chiropody without an annual renewal certificate for the current year, as provided herein, shall have the same force and effect and subject to all penalties of practicing chiropody without a license. After the Board has declared a license suspended or revoked, as provided for in this Act, the Board may thereafter in its discretion refuse to reinstate such license or issue a new license until chiropodist, whose license has been declared suspended or revoked for nonpayment of annual renewal fee, has passed a regular examination for license, as provided for by this Act. If any license issued under this or any former law in Texas shall be lost or destroyed, the holder of said license may present his application to the Board for duplicate license, together with his affidavit of loss or destruction, and that he is the same person to whom said license was issued, and shall, upon the payment of a fee of Ten Dollars (\$10), be granted a license under this law. If the records of said Board fail to show that such person was ever licensed, the Board may exercise its discretion in granting said duplicate license.

"Every person practicing chiropody in this State shall display the license and annual renewal certificate in a conspicuous place in the office wherein he practices chiropody and whenever required shall exhibit such license or certificate to the Board or its authorized representative."

Sec. 5. Article 4572 of the Revised Civil Statutes of Texas of 1925 is hereby amended so that the same shall hereafter read as follows:

"Article 4572. The State Board of Chiropody Examiners may, in its discretion, upon payment by the applicant of a registration fee of One Hundred Dollars, grant a license to practice chiropody to any reputable chiropodist who is a graduate of a reputable college of chiropody, and to licentiates of other States or territories having requirements for chiropody registration and practice equal to those established by this law. Application for license, under provisions of this Act, shall be in writing and upon a form to be prescribed by the State Board of Chiropody Examiners. Said application shall be accompanied with a diploma or photograph thereof awarded to the applicant by

a reputable college of chiropody lawfully issued to the applicant by some other State or territory, and also be accompanied by an affidavit from the president or secretary of the Board of Chiropody Examiners who issued the said license, or by the legally constituted chiropody registration office of a State or territory in which the certificate or license was granted upon which the application for chiropody registration in Texas is based. Said affidavit shall recite that the accompanying certificate or license has not been cancelled or revoked and that the statement of qualifications made in the application for chiropody registration in Texas is true and correct. Applicants for license under provisions of this Act shall subscribe to an oath in writing, which shall be a part of said application stating that the license or certificate or authority under which the applicant practiced chiropody in the State or territory from which the applicant removed was, at the time of such removal, in full force and not suspended or cancelled. That the applicant is the identical person to whom said certificate or license or said chiropody diploma was issued and that no proceedings were pending at the time of such removal, or are at the present time pending, against the applicant for the cancellation of such certificate, license or authority to practice chiropody in the State or territory in which the same was issued, and that no prosecution was then or is at the time of the application pending against the applicant in any State or Federal Court for any offense, which, under the laws of Texas, is a felony."

Sec. 6. Article 778 of the Penal Code of Texas, 1925, is hereby amended so that the same shall hereafter read as follows:

"Article 778. Chiropody means the diagnosis, medical and surgical treatment of ailments of the human foot. A chiropodist is one practicing chiropody. Whoever professes to be a chiropodist or practices or assumes the duties incident to chiropody, without first obtaining from the State Board of Chiropody Examiners a license authorizing the practice of chiropody, or who shall employ or agree to employ, pay or promise to pay, any person, persons, firms, partnerships or corporations for securing, soliciting or drumming patients, and any person who accepts or agrees to ac-

cept employment or payment for securing, soliciting or drumming patients for a chiropodist shall be punished by a fine of not less than One Hundred Dollars (\$100), nor more than Five Hundred Dollars (\$500), or by imprisonment in the county jail for not less than thirty (30) days, nor more than six (6) months, or by both such fine and imprisonment for each offense. Each payment, reward, fee or agreement to pay, or accepting a reward or fee, shall constitute a separate offense."

Sec. 7. Chapter 11, Title 12 of the Penal Code of Texas of 1925 is hereby amended by adding thereto, immediately after Article 778, as amended herein, a new Article, to be entitled Article 778-a, and to read as follows:

"Article 778-a. It shall be unlawful for any person or persons to practice chiropody in this State under the name of a corporation, company, association, joint stock company or partnership, or trade name, or under any name other than his own proper name, which shall be the name in his license, as issued by the State Board of Chiropody Examiners. Each day of violation of the Article shall constitute a separate offense."

Sec. 8. All laws or parts of laws in conflict herewith are hereby repealed.

Sec. 9. If any Article, Section, subsection, sentence, clause, or phrase of this Act is, for any reason, held to be unconstitutional, such decision shall not affect the validity of any remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and each Section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more of the Sections, subsections, sentences, clauses, or phrases are declared unconstitutional.

Sec. 10. The fact that the present law regulating the practice of chiropody is enacted to protect the public health, and that new legislation better protects the public health, creates an imperative public necessity that the Constitutional Rule, requiring all bills to be read on three separate days in each House, be and the same is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Question—Shall the report be adopted?

The report was adopted by the following vote:

Yeas—26

Aikin	Moffett
Brownlee	Moore
Burns	Nelson
Collie	Pace
Cotten	Roberts
Graves	Shivers
Hardin	Small
Head	Spears
Hill	Stone
Isbell	of Galveston
Kelley	Stone
Lanning	of Washington
Martin	Van Zandt
Metcalf	Winfield

Absent

Beck	Sulak
Lemens	Weinert
Redditt	

#### Message from the House

A Clerk from the House was recognized to present the following message:

Hall of the House of Representatives,  
Austin, Texas, June 13, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

H. B. No. 1078, A bill to be entitled "An Act amending Sections 1 and 3 of Article 1105B of the 1925 Revised Civil Statutes of Texas, enacted by Acts of the First Called Session, Fortieth Legislature, 1927, page 489, Chapter 106; authorizing incorporated cities, towns, and villages incorporated under either General or Special Law, including those operating under a special charter or charter adopted pursuant to the home rule provisions of the Constitution, or any amendment or amendments thereto, to cause to be improved streets, avenues, alleys, highways, boulevards, drives, public places, squares, or any portion or portions thereof; to assess part of the cost against abutting property and owners thereof and against railroads, street railroads, or interurbans and the owners thereof, so that such improvements and assessments may be made although such streets, avenues,

alleys, highways, boulevards, drives, public places, squares, or any portion or portions thereof lie without the corporate limits of such cities, towns, and villages, if that part to be improved lies immediately adjacent to and adjoins such corporate limits, and although the property abutting thereon is located outside such corporate limits; repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

H. B. No. 1126, A bill to be entitled "An Act making an appropriation of the sum of Seventy-five Thousand (\$75,000.00) Dollars or so much thereof as may be necessary, out of any funds in the State Treasury not otherwise appropriated, to pay the contingent expenses and per diem of Members, and declaring an emergency."

H. B. No. 1136, A bill to be entitled "An Act amending Article 2844 of the Revised Civil Statutes of 1925, and declaring an emergency."

S. B. No. 171, A bill to be entitled "An Act providing for voluntary apprenticeship to open to young people the opportunity to obtain training that will equip them for profitable employment and citizenship; to set up, as a means to this end, a program of voluntary apprenticeship under approved apprentice agreements providing facilities for their training and guidance in the arts and crafts of industry and trade, with parallel instruction in related and supplementary education; to promote employment opportunities for young people under conditions providing adequate training and reasonable earnings; to relate the supply of skilled workers to employment demands; to establish standards for apprentice training; to establish an Apprenticeship Council and local and State joint apprenticeship committees to assist in effectuating the purposes of this Act; to provide for a Director of Apprenticeship within the Bureau of Labor Statistics; to provide for reports to the Legislature and to the public regarding the status of apprentice training in the State; to establish a procedure for the determination of apprentice agreement controversies; and to accomplish related ends."

S. B. No. 356, A bill to be entitled "An Act amending Article 2671 of the Revised Civil Statutes of Texas as

amended by Chapter 278 Acts of the Regular Session of the Forty-first Legislature, relating to purchase of bonds by Boards of Education, and declaring an emergency." (With amendment.)

S. B. No. 485, A bill to be entitled "An Act to validate all ad valorem tax levies and assessments heretofore made by incorporated cities and towns in the State of Texas having a population of not less than 3,450 inhabitants and not more than 3,455 according to the last Federal Census, which levies and assessments are void or unenforceable because of the failure of the governing body of each respective incorporated city and town to make such levy by ordinance and which levies and assessments of property are void or unenforceable because of the failure of the tax assessor and collector of each respective incorporated city and town to make and prepare the proper assessment rolls and reports and which levies and assessments are void or unenforceable because of the failure of such tax assessor and collector to make and prepare current tax rolls as required by the statutes of this State; providing this Act shall not validate any levies and assessments for ad valorem taxes where the validity of such levy and assessment has been contested in any pending suit; and declaring an emergency."

S. B. No. 488, A bill to be entitled "An Act to amend Section 1 of S. B. 275, of the Acts of the Forty-sixth Legislature, Regular Session of 1939, and to provide that all processes and writs issued and served and recognizances and bonds and undertakings entered into before this Act takes effect and made returnable to the 87th Judicial District Court in Limestone, Freestone, Anderson and Leon Counties, shall be considered as returnable to the next succeeding term of the 87th Juricial District Court after this Act takes effect and to provide that all Grand and Petit Juries drawn and selected under the existing laws, in either Anderson, Limestone, Freestone or Leon Counties shall be considered as legally drawn and selected for the next succeeding term of the District Court of their respective counties after the taking effect of this Act and declaring an emergency."

The House has concurred in Senate amendments to H. B. No. 410 by a vote of 75 yeas and 38 nays.

Respectfully submitted,  
E. R. LINDLEY,  
Chief Clerk, House of Representatives.

#### House Bills on First Reading

The following bills received from the House today, were laid before the Senate, read severally first time, and referred to the committees indicated:

H. B. No. 1078, to the Committee on Game and Fish.

H. B. No. 1136, to the Committee on Education.

H. B. No. 1126, to the Committee on Finance.

#### Messages from the Governor

The President laid before the Senate, and had read, the following messages:

Austin, Texas,  
June 12, 1939.

To the Members of the Senate of the Forty-sixth Legislature:

I ask the advice, consent and confirmation of the Senate on the following appointment:

To be a Member of the State Board of Embalming (Six-year term ending May 31, 1945):

Roy F. Crowder of Fort Worth, Tarrant County.

Respectfully submitted,  
W. LEE O'DANIEL,  
Governor of Texas.

Austin, Texas,  
June 12, 1939.

To the Members of the Senate of the Forty-sixth Legislature:

I ask the advice, consent and confirmation of the Senate to the following appointment:

To be Chairman of the Livestock Sanitary Commission (Six-year term beginning May 4th, 1939):

Roy Loventhall of Lufkin, Angelina County.

Respectfully submitted,  
W. LEE O'DANIEL,  
Governor of Texas.

The messages were referred to the Committee on Nominations of the Governor.

### Committee Substitute for House Bill 912 on Passage to Third Reading

(Special Order)

The President laid before the Senate, as the unfinished special order, on its passage to third reading (the bill having been read second time on yesterday):

C. S. for H. B. No. 912, A bill to be entitled "An Act further regulating the sale, transportation, storage, manufacturing, etc., of alcoholic beverages in this State under the Texas Liquor Control Act, etc., and declaring an emergency."

With amendment by Senator Small, striking out all after the enacting clause of the bill and inserting in lieu thereof the full text of a complete bill, pending.

Question—Shall the amendment be adopted?

Senator Martin offered the following amendment to the amendment:

Amend Small amendment to Committee Substitute H. B. No. 912 by adding a new section to be designated as Section 16-A to read as follows:

"That Section 22, Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature, as further amended by Senate Bill No. 20, Acts of the First Called Session of the Forty-fifth Legislature be further amended so as to hereafter read as follows:

"Sec. 22. Any order of the Board or Administrator cancelling a license shall have the effect that the holder of such cancelled license shall be ineligible to hold a license to sell beer for a period of one year thereafter except during the period that the order of cancellation is superseded pending trial, or unless he shall prevail in any final judgment rendered upon appeal as herein provided.

"Appeal from decisions or orders of the Board or Administrator cancelling, suspending or refusing a license may be had under the same rules and procedure as provided in Section 14, Article I of this Act. Provided, further, that in the event an appeal is taken from an order of the Board or Administrator suspending a li-

cense and the final judgment of the court shall be against the licensee, then, and in that event, the order of suspension shall take effect from and upon the date the decision of the court hearing the appeal becomes final. Provided, further, that it shall be unlawful for the holder of such suspended license or any agent, servant or employee thereof to sell beer within the period of time when any order suspending the license is in force and effect."

Senator Burns moved to table the amendment to the amendment.

Yeas and nays were demanded, and the motion to table was lost by the following vote:

#### Yeas—11

Aikin	Lemens
Beck	Metcalfe
Burns	Nelson
Head	Redditt
Hill	Sulak
Lanning	

#### Nays—20

Brownlee	Roberts
Collie	Shivers
Cotten	Small
Graves	Spears
Hardin	Stone
Isbell	of Galveston
Kelley	Stone
Martin	of Washington
Moffett	Van Zandt
Moore	Weinert
Pace	Winfield

The amendment to the amendment was adopted.

Question—Shall the amendment (as amended) be adopted?

#### House Concurrent Resolution 180

On motion of Senator Lanning and by unanimous consent, the regular order of business was suspended to permit consideration of H. C. R. No. 180 at this time.

The President then laid before the Senate for consideration at this time:

H. C. R. No. 180, Authorizing the State Highway Department of Texas to give to the School Board of Prairie Point Common School District No. 10 of Montague County sufficient quantities of discarded guard wire.

The resolution was read and was adopted.



**Senate Concurrent Resolution 62**

Senator Redditt, by unanimous consent, offered at this time the following resolution:

Be It Resolved, by the Senate of Texas, the House of Representatives concurring, That F. P. Adams, Judge of the 1st Judicial District of Texas, be, and he is hereby granted permission to be absent from the State of Texas, at such intervals and for such time as he may see fit and proper while his courts are in vacation during the years of 1939 and 1940.

The resolution was read; and on motion of Senator Redditt and by unanimous consent, it was considered immediately.

The resolution was adopted.

**Reports of Standing Committees**

Senator Roberts, by unanimous consent, submitted at this time the following report of the Committee on Finance:

Austin, Texas,  
June 13, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred

H. B. No. 1126, A bill to be entitled "An Act making an appropriation of the sum of Seventy-five Thousand Dollars (\$75,000), or so much thereof as may be necessary, out of any funds in the State Treasury not otherwise appropriated, to pay the contingent expenses and per diem of members; and declaring an emergency,"

Have had the same under consideration, and I am instructed to report it back to the Senate with recommendation that it do pass and be not printed.

ROBERTS, Chairman.

Senator Brownlee, by unanimous consent, submitted at this time the following report of the Committee on Highways and Motor Traffic:

Austin, Texas,  
June 13, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Highways and Motor Traffic, to whom was referred

H. C. R. No. 180 by London, "Authorizing the State Highway Department of Texas to give to the School Board of Prairie Point Common School District No. 10 of Montague County sufficient quantities of discarded guard wire for purposes set out,"

Have had the same under consideration, and I am instructed to report it with the recommendation that it do pass and be not printed.

BROWNLEE, Chairman.

**House Bill 1126 on Second Reading**

Senator Roberts moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 1126 be placed on its second reading and passage to third read and on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—31

Aikin	Moore
Beck	Nelson
Brownlee	Pace
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Graves	Small
Hardin	Spears
Head	Stone
Hill	of Galveston
Isbell	Stone
Kelley	of Washington
Lanning	Sulak
Lemens	Van Zandt
Martin	Weinert
Metcalf	Winfield
Moffett	

On motion of Senator Roberts and by unanimous consent, Senate Rules 31a and 48 were suspended, and the regular order of business was suspended to permit consideration of H. B. No. 126 at this time.

The President laid the bill before the Senate on its second reading and passage to third reading.

The bill was read second time.

Senator Roberts offered the following amendments to the bill:

(1)

Amend H. B. No. 1126 by striking out the words and figures "Seventy-five Thousand Dollars (\$75,000)"

wherever they appear and inserting in lieu thereof the words and figures "One Hundred Thousand Dollars (\$100,000.)"

(2)

Amend the caption to H. B. No. 1126 by striking out the words and figures "Seventy-five Thousand Dollars (\$75,000)" and inserting in lieu thereof the words and figures "One Hundred Thousand Dollars (\$100,000.)"

The amendments were adopted severally.

The bill was passed to third reading.

#### House Bill 1126 on Third Reading

The President then laid H. B. No. 1126 before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—31

Ailkin	Moore
Beck	Nelson
Brownlee	Pace
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Graves	Small
Hardin	Spears
Head	Stone
Hill	of Galveston
Isbell	Stone
Kelley	of Washington
Lanning	Sulak
Lemens	Van Zandt
Martin	Weinert
Metcalfe	Winfield
Moffett	

#### Report of Conference Committee on Senate Bill 240

Senator Brownlee submitted at this time the following report of the conference committee on S. B. No. 240:

Austin, Texas,  
June 12, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Hon. R. Emmett Morse, Speaker of the House of Representatives.

Sirs: We, your Conference Committee appointed to adjust the differences between the Senate and the House of Representatives on Senate Bill No. 240, do report that we have

had the same under consideration and recommend to the Senate and House of Representatives that it do pass in the form attached hereto.

Respectfully submitted,

BROWNLEE,  
KELLEY,  
WINFIELD,  
BURNS,

On the part of the Senate.

BOYD,  
ALLEN,  
COCKRELL,  
THORNBERRY,

On the part of the House.

By Brownlee.

S. B. No. 240.

#### A BILL

#### TO BE ENTITLED

An Act regulating fishing in Burnet, Llano, San Saba, Lampasas and Travis Counties; providing for size and bag limits of fish caught or taken from lake waters in such Counties and making it unlawful to take or catch fish, except Catfish and Gasper, from the waters of Buchanan, Inks, Marshall Ford, Marble Falls and Tom Miller (Lake Austin) Lakes except by certain means or the use of certain devices; providing for a closed season in such Lakes and making exceptions; regulating the transportation of minnows; and providing a penalty and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. It shall be unlawful for any person to catch, take or have in his possession any Black Bass less than eleven (11) inches in length; any White Bass less than eleven (11) inches in length; any Crappie or White Perch less than seven (7) inches in length; any Catfish less than nine (9) inches in length, from any hereafter named lakes of said Burnet, Llano, San Saba, Lampasas or Travis Counties.

Sec. 2. It shall be unlawful for any person to catch or retain in any one day more than (10) Black Bass, ten (10) White Bass, ten (10) Crappie or White Perch, or ten (10) Catfish. Provided further that it shall be unlawful for any person to catch and retain from the lakes hereinafter named in the Counties mentioned in Section 1 more than an aggregate

of twenty fish in any one day. And it shall be unlawful for any person to have in his possession more than twenty (20) fish at any one time taken from the lakes of the Counties named.

Sec. 3. It shall be unlawful for any person to transport at any time beyond the borders of the Counties mentioned in Section 1 hereof more than two hundred (200) minnows taken from any of the waters described in this Act; provided that transportation of not more than two hundred (200) minnows from any County to any one of the Counties mentioned herein or from one of such Counties to another shall not be unlawful.

Sec. 4. No fish shall be taken or caught from Tom Miller (Lake Austin), Marshall Ford, Roy Inks and Buchanan Lakes except by ordinary pole and line, throw line with not more than six (6) hooks, rod and reel, artificial bait, or a trot line with not more than thirty (30) hooks but this Act shall not apply to any waters of the Counties mentioned in Section 1 hereof other than the lake waters herein.

Sec. 5. No person shall catch or attempt to catch any fish, except Catfish and Gasper, from the waters of Buchanan, Inks, Marble Falls, Marshall Ford, or Tom Miller (Lake Austin) Lakes during the months of March and April of each year by any means or device. Provided, however, that this section shall not affect the present laws as to open and closed seasons in the waters of Burnet, San Saba, Llano, Lampasas, and Travis Counties not included within the lake waters of the lakes mentioned in this Act.

Sec. 6. Any person violating any Section of this Act shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in a sum not less than Ten (\$10.00) Dollars, nor more than Two Hundred (\$200.00) Dollars. All laws or parts of laws in conflict herewith are hereby expressly repealed.

Sec. 7. The fact that the laws of this State do not provide adequate protection to all persons in the Counties named herein for the conservation of the fish, and that there is a demand on the part of the fisherman and sportsman in the Counties named for a universal provision applying in the Lake sections of Central Texas

affected hereby, creates an emergency and an imperative public necessity requiring that the Constitutional Rule requiring bills to be read on three several days be suspended and said Rule is hereby suspended and this Act shall take effect and be in force on and after its passage, and it is so enacted.

Question—Shall the report be adopted?

The report was adopted by the following vote:

Yeas—31

Aikin	Moore
Beck	Nelson
Brownlee	Pace
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Graves	Small
Hardin	Spears
Head	Stone
Hill	of Galveston
Isbe'l	Stone
Kelley	of Washington
Lanning	Sulak
Lemens	Van Zandt
Martin	Weinert
Metcalf	Winfield
Moffett	

#### Message from the House

A Clerk from the House was recognized to present the following message:

Hall of the House of Representatives,  
Austin, Texas, June 13, 1939.

Hon. Coke R. Stevenson, President, of  
the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

S. C. R. No. 61, Providing that the Legislature stand adjourned sine die, June 21, 1939, at 12:00 o'clock noon.

Respectfully submitted,

E. R. LINDLEY,

Chief Clerk, House of Representatives.

#### Report of Conference Committee on House Bill 249

Senator Van Zandt called for the consideration at this time of the report of the conference committee on H. B. No. 249, which report was submitted on May 31, 1939, and printed in the Journal of that day.

The President laid the report before the Senate.

Question—Shall the report be adopted?

The report was adopted by the following vote:

Yeas—30

Aikin	Moffett
Beck	Nelson
Brownlee	Pace
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Graves	Small
Hardin	Spears
Head	Stone
Hill	of Galveston
Isbell	Stone
Kelley	of Washington
Lanning	Sulak
Lemens	Van Zandt
Martin	Weinert
Metcalfe	Winfield

Nays—1

Moore

#### Senate Concurrent Resolution 57

On motion of Senator Head and by unanimous consent, the regular order of business was suspended to permit consideration of S. C. R. No. 57 at this time.

The President laid before the Senate for consideration at this time:

S. C. R. No. 57, To establish the Texas Commission on Interstate Cooperation.

The resolution was adopted.

#### Report of Conference Committee on House Bill 363

Senator Shivers, by unanimous consent, submitted at this time the following report of the Conference Committee on H. B. No. 363:

Austin, Texas,  
June 6, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Hon. R. Emmett Morse, Speaker of the House.

Sirs: We, your Conference Committee, appointed to adjust the differences between the Senate and the House on H. B. No. 363, have met and beg leave to recommend that said

H. B. No. 363 be passed in the form hereto attached.

Respectfully submitted,  
SHIVERS,  
BURNS,  
REDDITT,  
MOORE,

On the part of the Senate.

KINARD,  
HARTZOG,  
HEFLIN,  
HOWARD,

On the part of the House.

H. B. No. 363.

#### A BILL

#### TO BE ENTITLED

An Act providing for the display of the United States Flag at all public schools; providing for installation of Chair of Americanism in all State Universities and State-supported colleges; requiring teaching of a brief history of the Constitution; requiring that parliamentary law and a brief history of the rise of representative government be taught in all public schools and that the Board of Education provide for such instruction; excepting schools already complying with the law requiring the teaching of the Constitution; providing that all teachers in State-supported schools shall be citizens of the United with certain exceptions, providing for dismissal of any department head, principal, or teacher for failure to comply with the requirements of the Act; and declaring an emergency."

Be it enacted by the Legislature of the State of Texas:

Section 1. All public schools within this State shall display the Flag of the United States on suitable flag poles on or near the school buildings, and such display shall be made each day in accordance with good flag etiquette.

Sec. 2. In all State Universities and State-supported colleges there shall be installed a Chair of Americanism, teaching a brief history of the Constitution. The governing boards of the several institutions of higher learning giving courses in government in compliance with this section and/or existing law shall determine the number of hours of such courses to be required for all de-

grees granted by such institutions, but in no case shall less than three hours be required. The requirements of this section relating to the establishment of a Chair of Americanism shall not apply to State Universities or State-supported schools that are now complying with the law requiring the teaching of the Constitution.

Sec. 3. In all public schools, the subject of parliamentary law together with a brief history of the rise of representative government shall be taught. The State Board of Education shall provide for such instruction.

Sec. 4. No person shall be employed by the colleges, universities or other State-supported educational system of the State of Texas or in any way be associated in a remunerative capacity with the educational system of the State of Texas, who is not a citizen of the United States, unless such person, who is not a citizen shall have instituted naturalization proceedings at least one year prior to application for employment and pursued such proceedings as rapidly as permitted by law; providing that the continued employment of such person shall be contingent upon the completion of naturalization proceedings, and the securing of full citizenship with all possible dispatch; and providing further that nothing in this Act shall be construed as prohibiting the employment of scholars from other American or foreign universities in exchange relationship, or otherwise, for a period of not to exceed one year.

Sec. 5. Wilful neglect or failure on the part of the head of any department, or principal or teacher in our State-supported institutions of learning to observe and carry out the requirements of this Act shall be sufficient cause for the dismissal or removal of such party from his or her position.

Sec. 6. The fact that many agencies of foreign isms are seeking to overthrow our Democratic form of Government constitutes an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and the same is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

### Bills Signed

The President signed, in the presence of the Senate, after their captions had been read, the following enrolled bills:

H. B. No. 1098, "An Act to prohibit the sale or offering for sale, or the buying of any bass, crappie, perch or catfish or any other fish taken from any river, creek, lake, slough, bayou, tank or pond flowing or situated within the boundaries of DeWitt County; prescribing a penalty, and declaring an emergency."

H. B. No. 886, "An Act providing that County Commissioners' Courts and the municipal government of any incorporated city, town or village, may appoint, employ and pay case workers and investigators to make investigations of needy persons to whom may be supplied necessities, furnished by the Texas Relief Commission, and proper Federal Agency, or by counties or cities or by any one of said agencies, city, commission, city or county; providing that in no case shall there be employed more than one case worker or investigator to every one hundred thousand (100,000) inhabitants of each County in this State; providing that County Commissioners' Courts in this State in conjunction with municipalities and governments of any incorporated city, town or village may enter into an agreement to jointly appoint, employ and pay the salary of case workers or investigators to make investigations of needy persons to whom may be supplied necessities furnished by the Texas Relief Commission, etc., and declaring an emergency."

H. B. No. 181, "An Act to extend for an additional period of twenty years the provisions of Chapter 22, Acts of the Third Called Session of the Thirty-sixth Legislature and to amend same in other particulars so as to read and be as provided for herein and to aid the city of Aransas Pass in constructing and maintaining sea walls, breakwaters, and other shore protections, including wharves forming part or parts of same in order to protect said city from calamitous overflows by donating to it the eight-ninths (8/9) of the ad valorem taxes collected on property and from persons in San Patricio County for period ending August 31, 1960, and pro-

viding a penalty for the misapplication of monies thus donated and declaring an emergency."

H. B. No. 180, "An Act to amend Chapter 23 of the Acts of the Third Called Session of the Thirty-sixth Legislature of the State of Texas, same being an Act entitled: 'An Act to aid the City of Rockport in constructing seawalls, breakwaters, revetments and shore protections by donating to the city the ad valorem taxes to be collected by the State of Texas on all property and from all persons owning property situated in Aransas County, Texas, for a period of twenty years, and to authorize said city to issue bonds for the purposes mentioned, and to provide a penalty for the misapplication of funds raised therefrom, and to declare an emergency.' By extending the provisions of said Act for a period of forty years from September 1, 1920 and to aid the City of Rockport to pay interest and sinking funds upon outstanding bonds heretofore issued, the proceeds of which have been used exclusively in constructing and maintaining seawalls, breakwaters and shore protection to protect the City of Rockport and to issue bonds for the purpose of constructing seawalls, breakwaters, revetments and shore protection to protect said City of Rockport."

H. B. No. 1110, "An Act fixing compensation for justices of the peace and constables in certain counties; providing said compensation may be paid by part fees and part salary; providing mode and manner for payment of this salary; providing for limitations under this Act, and declaring an emergency."

H. B. No. 1107, "An Act validating, confirming, approving and legalizing all bonds heretofore authorized by the necessary vote of the qualified voters of all cities or towns at an election, or elections held during the year 1938; providing this Act shall only apply to cities and towns acting under a home rule charter and which city or town did not at the time of the holding of said election, or elections, own any of the following utilities from which it could derive revenue: water system, sanitary sewer system, electric light system, or natural gas distribution system; repealing Senate Bill No. 438, Acts of the Regular Ses-

sion of the Forty-sixth Legislature; and provided this Act shall not apply to any such bond the validity of which has been contested or attacked in any pending suit or litigation, and declaring an emergency."

H. B. No. 1118, "An Act to authorize, enable, and permit the territory situated within the bounds of the Andrews Independent School District, in the County of Andrews and State of Texas, and other lands and territory adjacent thereto in Andrews County, to incorporate as an independent district for free school purposes only, to be hereafter known as the Andrews Independent School District, with all the powers, rights, privileges, and duties of independent school districts formed by incorporation of territory for free school purposes only; and to provide for an election on the question of divesting the old Andrews Independent School District of control of its public schools and title to school properties, and vesting the same in the new Andrews Independent School District and its board of trustees; providing for a board of school trustees for the control and management of said independent school district; providing that all funds held for public school purposes and to be used in the territory included in the new district shall be turned over to the trustees of the new district as herein provided may be created; providing that any outstanding bonds or indebtedness of the old district may, upon an election being held in the new district, be paid by a tax duly levied in the new district; providing other incidental provisions; and declaring an emergency."

H. B. No. 1081, "An Act making an appropriation for the Upper Guadalupe River Authority; designating who shall have authority to execute vouchers under the directions and with the consent of Directors of said District; limiting the purposes for which the money may be spent; providing money therein appropriated is intended as a loan and is to be repaid to the State's General Revenue Fund from the first revenue received by said district, and declaring an emergency."

H. B. No. 1101, "An Act to provide for rural school supervisor in San Augustine County; providing mode and manner of paying such salary;

providing for appointment of rural school supervisor in said County by the County Superintendent of the County; providing qualifications and tenure of office; prescribing certain duties; repealing all laws and parts of laws in conflict herewith; and declaring an emergency."

H. B. No. 1099, "An Act validating and approving all proceedings had by cities and towns in amending their corporate charters so as to eliminate any requirements in said charter that any portion of the annual ad valorem tax levied in said city or town shall be provided for or set apart for the use of the public free schools in said city or town, provided this Act shall only apply to cities and towns acting under a home rule charter and which charter sought to be amended provides that a portion of the annual ad valorem taxes levied shall be set apart for the use of the public free schools; and further provides that this Act shall not apply to such cities and towns unless such amendment to the charter was voted during the year 1938 and prior to the voting of said amendment the control of the public free schools in such cities and towns had been separated from the jurisdiction of said cities and towns and such public free schools were being operated under the control and jurisdiction of an independent school district, nor shall this Act be effective as to any city or town which did not during the year 1938 and prior to the voting of said charter amendment hold an election at which a majority of the votes cast authorized the issuance by said city or town of bonds to secure funds for making public improvements nor to any city or town in which the assessed value of property for the purposes of taxation as shown by the tax rolls of said city or town for the year 1938 was less than Six Million, Seven Hundred and Eighty Thousand (\$6,780,000) Dollars or more than Six Million, Eight Hundred and Fifty Thousand (\$6,850,000) Dollars, and repealing Senate Bill No. 439, Acts of the Regular Session of the Forty-sixth Legislature; and further provided this Act shall not apply to any such proceedings the validity of which has been contested or attacked in any pending suit or litigation, and declaring an emergency."

H. B. No. 1071, "An Act amending Article 2351 of the Revised Civil

Statutes of 1925 by adding thereto Section 16, providing that Commissioners' Courts may use county road machinery and funds from the General Fund or Road and Bridge Funds in cleaning streams and in aiding flood control when said Court decides such improvements will be of aid to the county in the maintenance and the building of county roads, and declaring an emergency."

H. B. No. 828, "An Act making an appropriation for use and benefit of the Lower Neches Valley Authority, and declaring an emergency."

H. B. No. 907, "An Act creating road law in Blanco County, Texas, providing work on public roads by those liable to such work; providing tax in lieu of such work; providing penalty for failure to pay such tax; providing time of paying such tax and penalty; making failure to work, pay the tax and/or the penalty a misdemeanor; affixing penalties therefor; repealing all laws in conflict to the extent of the conflict only; and declaring an emergency."

H. B. No. 1021, "An Act making it unlawful to use or possess oyster dredges in or on certain waters of Copano Bay, with exceptions; providing the Game, Fish and Oyster Commission may issue permits to use dredges to improve reefs, and that this Act does not apply to privately owned reefs; providing that United States Geodetic Maps are admissible in case of prosecution for violation of fish and oyster laws; providing a penalty; repealing all laws or parts of laws in conflict herewith, and declaring an emergency."

H. B. No. 1094, "An Act fixing the salaries of Superintendents of Public Instruction in each county in Texas having a population of not less than twenty-three thousand, six hundred and twenty (23,620) nor more than twenty-three thousand, eight hundred (23,800), according to the last Federal Census or any subsequent Federal Census; providing mode and manner of paying such salaries; repealing all laws and parts of laws in conflict herewith to the extent of such conflict only, and declaring an emergency."

H. B. No. 1060, "An Act fixing and providing for the payment of the salary and traveling and office expenses of the County Superintendent of Pub-

lic Instruction in counties with a population of not less than thirteen thousand, four hundred and fifty (13,450) nor more than thirteen thousand, six hundred (13,600) and not less than nineteen thousand, nine hundred and fifty (19,950) nor more than twenty thousand, one hundred (20,100, according to the preceding Federal Census; and fixing and providing for payment of compensation of County School Trustees in such counties, and declaring an emergency."

**Committee Substitute for House Bill 912 on Passage to Third Reading**  
(Special Order)

The Senate resumed consideration of the pending special order, same being C. S. for H. B. No. 912, amending the Liquor Control Act, on its passage to third reading; with amendment by Senator Small (as amended) pending.

Senator Redditt offered the following amendment to the amendment:

Amend H. B. No. 912 by adding a new section to read as follows:

"Section.—: The Administrator of the Texas Liquor Control Board elected by said Board, shall be confirmed by a vote of two-thirds (2/3) of the members of the Senate of Texas present and voting. The provisions of this Section shall not apply to the present Director."

Yeas and nays were demanded, and the amendment to the amendment was adopted by the following vote:

**Yeas—20**

Aikin	Moore
Burns	Nelson
Collie	Pace
Cotten	Redditt
Graves	Roberts
Hardin	Shivers
Head	Small
Hill	Stone
Isbell	of Galveston
Lanning	Weinert
Lemens	

**Nays—10**

Brownlee	Stone
Kelley	of Washington
Martin	Sulak
Metcalf	Van Zandt
Moffett	Winfield
Spears	

**Absent**

Beck

Question then recurring on the amendment (as amended), yeas and nays were demanded.

The amendment (as amended) was adopted by the following vote:

**Yeas—21**

Brownlee	Shivers
Graves	Small
Hardin	Spears
Isbell	Stone
Kelley	of Galveston
Martin	Stone
Metcalf	of Washington
Moore	Sulak
Nelson	Van Zandt
Pace	Weinert
Redditt	Winfield
Roberts	

**Nays—10**

Aikin	Head
Beck	Hill
Burns	Lanning
Collie	Lemens
Cotten	Moffett

Senator Stone of Galveston offered the following amendment to the bill:

Amend H. B. No. 912 as substituted by adding a new section to be appropriately numbered and located and to read as follows:

"Stamps for alcoholic beverages shall be supplied by the Treasurer to all authorized to purchase them, at a discount of two (2%) per cent from the face value when purchased in lots of Five Hundred (\$500.00) Dollars, or more."

Question—Shall the amendment be adopted?

(President Pro Tempore in the Chair.)

**Senate Resolution 96**

Senator Lemens offered the following resolution:

Whereas, The Senate has learned of the unfortunate and serious accident which has befallen our former colleague, Ex-Senator Will M. Martin of Hillsboro; now, therefore, be it

Resolved, That the Senate of Texas regrets Senator Martin's injuries and extends sympathy to Senator Martin and his family, and wishes for him a speedy and complete recovery. Be it further

Resolved, That flowers, bearing the



card of the Senate, be sent to Senator Martin.

LEMENS,  
PACE,  
COLLIE.

Signed: Aikin, Beck, Brownlee, Burns, Collie, Cotten, Graves, Hardin, Head, Collie, Isbell, Kelley, Lanning, Lemens, Martin, Metcalfe, Moffett, Moore, Nelson, Pace, Redditt, Roberts, Shivers, Small, Spears, Stone of Galveston, Stone of Washington, Sulak, Van Zandt, Weinert, Winfield.

The resolution was read.

On motion of Senator Moffett, the names of all Senators were added to the resolution as signers thereof.

The resolution was adopted unanimously.

#### Recess

Senator Pace moved that the Senate recess to 2:00 o'clock p. m. today.

The motion prevailed.

The Senate, accordingly, at 12:10 o'clock p. m., took recess to 2:00 o'clock p. m. today.

#### Afternoon Session

The Senate met at 2:00 o'clock p. m., and was called to order by the President.

#### Reports of Standing Committees

Senator Moore, by unanimous consent, submitted at this time the following report of the Committee on Game and Fish:

Austin, Texas,  
June 13, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Game and Fish, to whom was referred

H. B. No. 1078, A bill to be entitled "An Act permitting cities of more than 285,000 inhabitants to make improvements on highways outside the limits of such city provided such improvements do not extend more than one hundred and fifty (150) feet from such city limits; and declaring an emergency,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass, but

that the Committee Substitute attached hereto do pass and be not printed.

MOORE, Chairman.

Senator Aikin, by unanimous consent, submitted at this time the following report of the Committee on Education:

Austin, Texas,  
June 13, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Education, to whom was referred

H. B. No. 1136, A bill to be entitled "An Act amending Article 2844 of the Revised Civil Statutes of Texas of 1925, as amended; and declaring an emergency,"

Have had the same under consideration and we wish to report it back to the Senate with the recommendation that it do pass and be not printed.

AIKIN, Chairman.

Senator Hill, by unanimous consent, submitted at this time the following report of the Committee on Towns and City Corporations:

Austin, Texas,  
June 13, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Towns and City Corporations, to whom was referred

H. C. R. No. 175, A resolution "Authorizing a Committee to investigate lobbying,"

Have had the same under consideration, and I am instructed to report same back to the Senate with the recommendation that it do not pass, but that Senate Committee Substitute do pass in lieu thereof, and that same be not printed.

HILL, Chairman.

#### Committee Substitute for House Bill 912 on Passage to Third Reading

(Special Order)

The Senate resumed consideration of the pending special order, same being C. S. for H. B. No. 912, on its passage to third reading, with amendment by Senator Stone of Galveston pending.

Question—Shall the amendment be adopted?

Pending consideration of the amendment, Senator Hill asked unanimous consent of the Senate to move that the regular order of business be suspended to permit consideration of H. C. R. No. 175 at this time.

The President announced there was objection to the request.

#### House Bill 1079 on Second Reading

On motion of Senator Burns and by unanimous consent, the regular order of business was suspended to permit consideration of H. B. No. 1079 at this time.

The President laid before the Senate on its second reading and passage to third reading:

H. B. No. 1079, A bill to be entitled "An Act to aid the San Jacinto River Conservation and Reclamation District embracing the Counties of Montgomery, Walker, San Jacinto, and all that part of Liberty County embraced in the San Jacinto Watershed in carrying out the powers, duties and functions conferred upon such District by the Legislature; granting and donating to such District, with limitations, for a period of twenty (20) years, fifty (50%) per cent of all the State ad valorem taxes for General Revenue purposes upon the property and from persons in counties comprising in whole or in part such District, and declaring an emergency."

The bill was read second time and was passed to third reading.

#### House Bill 1079 on Third Reading

Senator Burns moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 1079 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—25

Aikin	Hardin
Beck	Head
Brownlee	Hill
Burns	Isbell
Cotten	Kelley
Graves	Lanning

Lemens	Small
Martin	Spears
Metcalfe	Stone
Moore	of Galveston
Nelson	Stone
Pace	of Washington
Roberts	Sulak
Shivers	

Nays—1

Collie

Absent

Moffett	Weinert
Redditt	Winfield
Van Zandt	

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

#### Record of Votes

Senators Aikin, Beck, Hill, Pace, Isbell, Lanning, Collie, and Graves, asked to be recorded as voting "nay" on the passage of the bill.

#### Report of Conference Committee on House Bill 190

Senator Nelson, by unanimous consent, submitted at this time the following report of the Conference Committee on H. B. No. 190:

Austin, Texas,  
June 12, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Hon. R. Emmett Morse, Speaker of the House.

Sirs: We, your Conference Committee appointed to adjust differences between the Senate and the House on House Bill No. 190, have met and beg leave to recommend that House Bill No. 190 be passed in the form hereto attached.

Respectfully submitted,

NELSON,  
KELLEY,  
AIKIN,  
MARTIN,  
STONE of Galveston,

On the part of the Senate.

ALLISON,  
TENNANT,  
RUSSELL,  
VINT,  
PETSCH,

On the part of the House.

A BILL  
TO BE ENTITLED

An Act making it unlawful to obtain with intent to defraud, money, goods, service, labor, or other thing of value, by giving or drawing any check, draft, or order upon any bank, person, firm, or corporation, if the person drawing or giving such instrument does not at the time it is so given or drawn have sufficient funds with the drawee to pay such instrument and all other checks, drafts, or orders upon such funds outstanding at the time such instrument is given or drawn; providing nonpayment of such instrument upon presentation to be prima facie evidence that the maker or giver thereof had insufficient funds with the drawee to pay same at the time made or given and that the maker or giver thereof gave or drew such instrument with intent to defraud; and providing proof of the deposit of such instrument with a bank for collection and return thereof to depositor unpaid to be prima facie evidence of presentation and nonpayment; and providing notice of protest to be prima facie evidence of presentment to drawee and nonpayment; and further making it unlawful to pay for any goods, service, labor, or other thing of value with intent to defraud, by giving or drawing a check, draft, or order upon any bank, person, firm, or corporation, if the person giving or drawing such instrument does not at the time it is so given or drawn have sufficient funds with the drawee to pay such instrument and all other checks, drafts, or orders upon such funds outstanding at the time such instrument is given or drawn; providing nonpayment of such instruments upon presentation to be prima facie evidence that the maker or giver thereof had insufficient funds with the drawee to pay same at the time made or given and that the maker or giver thereof, gave or drew such instrument with intent to defraud; and providing proof of the deposit of such instrument with a bank for collection and return thereof to depositor unpaid to be prima facie evidence of presentation and nonpayment; and providing notice of protest to be prima facie evidence of presentment to drawee and nonpayment; and fur-

ther making it unlawful to secure or retain possession of any personal property to which a lien has attached by the drawing or giving of any check, draft, or order upon any bank, person, firm, or corporation, if the person drawing or giving such instrument does not at the time it is so drawn or given have sufficient funds with the drawee to pay such instrument and all other checks, drafts, or orders upon such funds outstanding at the time such instrument is given or drawn; providing nonpayment of such instrument upon presentation to be prima facie evidence that the maker or giver thereof had insufficient funds with the drawee to pay same at the time made or given and that the maker or giver thereof gave or drew such instrument with intent to defraud; and providing proof of the deposit of such instrument with a bank for collection and return thereof to a depositor unpaid to be prima facie evidence of presentation and nonpayment; providing notice of protest to be prima facie evidence of presentment to drawee and nonpayment; and providing removal of such personal property from the premises where located at the time such instrument is drawn or given to be prima facie evidence that possession of such property was retained or secured by the giving of such instrument; making it unlawful for any person who has theretofore filed a complaint with a district or county attorney concerning a violation of certain sections of this act, or who has given information to a district or county attorney resulting in the acceptance of a complaint concerning such violations, or who has testified before a grand jury concerning such violations which returns an indictment thereon, to request or suggest to the district or county attorney in charge of the prosecution that prosecution be dismissed; providing for the issuance of process and the summoning and remuneration of witnesses in prosecutions under certain sections of this act; repealing Section 4 of Article 1546 of the Penal Code of the State of Texas, Revision of 1925; providing punishment for violation; providing a saving clause; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. It shall be unlawful for any person, with intent to defraud, to obtain any money, goods, service, labor, or other thing of value by giving or drawing any check, draft, or order upon any bank, person, firm or corporation, if such person does not, at the time said check, draft or order is so given or drawn, have sufficient funds with such bank, person, firm or corporation to pay such check, draft, or order, and all other checks, drafts, or orders upon said funds outstanding at the time such check, draft, or order was so given or drawn; provided that if such check, draft, or order is not paid upon presentation, the nonpayment of same shall be prima facie evidence that such person giving or drawing such check, draft, or order had sufficient funds with the drawee to pay same at the time the said check, draft, or order was given or drawn and that said person gave or drew such check, draft, or order with intent to defraud; and provided further that proof of the deposit of said check, draft, or order with a bank for collection in the ordinary channels of trade and the return of said check, draft, or order unpaid to the person making such deposit shall be prima facie evidence of presentation to, and nonpayment of said check, draft, or order by, the bank, person, firm or corporation upon whom it was drawn; and provided further that where such check, draft, or order has been protested, the notice of protest thereof shall be admissible as proof of presentation and nonpayment and shall be prima facie evidence that said check, draft, or order was presented to the bank, person, firm or corporation upon which it was drawn and was not paid.

Sec. 2. It shall be unlawful for any person, with intent to defraud, to pay for any goods, service, labor, or other thing of value, theretofore received, by giving or drawing any check, draft, or order upon any bank, person, firm or corporation, if such person does not, at the time said check, draft, or order is so given or drawn, have sufficient funds with such bank, person, firm, or corporation to pay such check, draft, or order, and all other checks, drafts, or orders upon said funds outstanding at the time such check, draft, or order was

so given or drawn; provided that such check, draft, or order is not paid upon presentation, the nonpayment of same shall be prima facie evidence that such person giving or drawing such check, draft, or order had insufficient funds with the drawee to pay same at the time the said check, draft, or order was given or drawn and that said person gave such check, draft, or order with intent to defraud; and provided further that proof of the deposit of said check, draft, or order with a bank for collection in the ordinary channels of trade and the return of said check, draft, or order unpaid to the person making such deposit shall be prima facie evidence of presentation to, and nonpayment of said check, draft, or order by, the bank, person, firm, or corporation upon whom it was drawn; and provided further that where such check, draft, or order has been protested, the notice of protest thereof shall be admissible as proof of presentation and nonpayment and shall be prima facie evidence that said check, draft, or order was presented to the bank, person, firm or corporation upon which it was drawn and was not paid.

Sec. 3. It shall be unlawful for any person, with intent to defraud, to secure or retain possession of any personal property, to which a lien has attached, by the drawing or giving of any check, draft, or order upon any bank, person, firm or corporation, if such person does not, at the time said check, draft, or order is so given or drawn, have sufficient funds with such bank, person, firm, or corporation to pay such check, draft, or order, and all other checks, drafts, or orders upon said funds outstanding at the time such check, draft, or order so given or drawn; provided that if such check, draft, or order is not paid upon presentation, the nonpayment of same shall be prima facie evidence that such person giving or drawing such check, draft, or order had insufficient funds with the drawee to pay same at the time the said check, draft, or order was given or drawn and that said person gave such check, draft, or order with intent to defraud; and provided further that proof of the deposit of said check, draft, or order with a bank for collection in the ordinary channels of trade and the return of said check, draft, or order unpaid to the person making such deposit shall be prima

facie proof of presentation to, and nonpayment of said check, draft, or order by, the bank, person, firm, or corporation upon which it was drawn; and provided further that where such check, draft, or order has been protested, the notice of protest thereof shall be admissible as proof of presentation and nonpayment and shall be prima facie evidence that said check, draft, or order was presented to the bank, person, firm, or corporation upon which it was drawn and was not paid; and provided further that the removal of such personal property, from the premises upon which it was located at the time such check, draft, or order was drawn or given, shall be prima facie evidence that possession of such property was retained or secured by the giving or drawing of said check, draft, or order.

Sec. 4. For the first conviction for a violation of Section 1, 2 or 3 of this Act, in the event the check, draft, or order given on any bank, person, firm or corporation, is \$5.00 or less, the punishment shall be by imprisonment in the county jail not exceeding two years, or by a fine not exceeding \$200.00. For the first conviction for a violation of Sections 1, 2, or 3 of this Act, in the event the check, draft, or order given on any bank, person, firm or corporation, is in excess of \$5.00, but less than \$50.00, punishment shall be by imprisonment in the county jail not exceeding two years, or by a fine not exceeding \$500.00.

If it be shown on the trial of a case involving a violation of Sections 1, 2, or 3 of this Act in which the check, draft, or order given on any bank, person, firm or corporation, is less than \$50.00, that the defendant has been once before convicted of the same offense, he shall, on his second conviction, be punished by confinement in the county jail for not less than 30 days nor more than two years.

If it be shown upon the trial of a case involving a violation of Sections 1, 2, or 3 of this Act that the defendant has two or more times before been convicted of the same offense, regardless of the amount of the check, draft or order involved in the first two convictions, upon the third or any subsequent conviction, the punishment shall be by confinement in the penitentiary for not less than two nor more than ten years.

For the first conviction for a viola-

tion of Sections 1, 2, or 3 of this Act, in the event the check, draft or order given upon any bank, person, firm or corporation, is in the amount of \$50.00 or more, punishment shall be by confinement in the penitentiary for not less than two nor more than ten years.

Sec. 5. In all prosecutions under Sections 1, 2 and 3 of this Act, process shall be issued and served in the county or out of the county where the prosecution is pending and have the same binding force and effect as though the offense being prosecuted were a felony; and all officers issuing and serving such process in or out of the county wherein the prosecution is pending, and all witnesses from within or without the county wherein the prosecution is pending, shall be compensated in like manner as though the offense were a felony in grade.

Sec. 6. If any person who has heretofore filed a complaint with any district or county attorney of this State alleging a violation of Sections 1, 2, or 3 of this Act, or who has furnished information to any such district or county attorney which has resulted in the acceptance by such district or county attorney of such a complaint, or who has testified concerning such a violation before a grand jury of this State which has thereafter returned an indictment on such violation, shall suggest to or request the county or district attorney in charge of such prosecution, that such case be dismissed, he shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than One Hundred Dollars (\$100.00), nor more than Five Hundred Dollars (\$500.00).

Sec. 7. Section 4 of Article 1546 of the Penal Code of the State of Texas as revised in 1925 be, and the same is hereby repealed.

Sec. 8. If any section, subsection, clause, phrase, or sentence of this Act is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and each section, subsection, clause, phrase, or sentence thereof, irrespective of the fact that one or more of the sections, subsections, clauses, phrases, or sentences be declared unconstitutional.

Sec. 9. The fact that the number of checks, drafts and orders drawn

and negotiated upon banks, persons, firms and corporations, without funds to pay such checks, is increasing within the State, and that the laws of the State of Texas are not now sufficient to cope with such situation, and that the giving of such checks, drafts and orders imposes an undue hardship and burden upon the people of the State of Texas, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and said rule is so suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

#### House Bill 864 on Passage to Reading

On motion of Senator Shivers and by unanimous consent, H. B. No. 864 was called from the table for further consideration at this time.

The President laid before the Senate on its passage to third reading:

H. B. No. 864, A bill to be entitled "An Act amending Article 3991 of the Revised Civil Statutes of the State of Texas of 1925, so that default judgment may be taken in Justice Court or County Court in forcible entry and detainer proceedings, and declaring an emergency."

The bill was passed to third reading.

#### House Bill 864 on Third Reading

Senator Shivers moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 864 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—31

Aikin	Isbell
Beck	Kelley
Brownlee	Lanning
Burns	Lemens
Collie	Martin
Cotten	Metcalf
Graves	Moffett
Hardin	Moore
Head	Nelson
Hill	Pace

Redditt  
Roberts  
Shivers  
Small  
Spears  
Stone  
of Galveston

Stone  
of Washington  
Sulak  
Van Zandt  
Weinert  
Winfield

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

#### Record of Votes

Senators Aikin and Spears asked to be recorded as voting "nay" on the passage of the bill.

#### House Bill 865 on Passage to Reading

On motion of Senator Shivers and by unanimous consent, H. B. No. 865 was called from the table for further consideration at this time.

The President laid before the Senate on its passage to third reading:

H. B. No. 865, A bill to be entitled "An Act amending Article 3985 of the Revised Civil Statutes of the State of Texas of 1925, so that default judgment may be taken in Justice Court in forcible entry and detainer proceedings, and declaring an emergency."

The bill was passed to third reading.

#### House Bill 865 on Third Reading

Senator Shivers moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 865 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—31

Aikin	Isbell
Beck	Kelley
Brownlee	Lanning
Burns	Lemens
Collie	Martin
Cotten	Metcalf
Graves	Moffett
Hardin	Moore
Head	Nelson
Hill	Pace

Redditt  
Roberts  
Shivers  
Small  
Spears  
Stone  
of Galveston

Stone  
of Washington  
Sulak  
Van Zandt  
Weinert  
Winfield

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

#### Record of Votes

Senators Hill, Metcalfe, Aikin and Spears asked to be recorded as voting "nay" on the passage of the bill.

#### Resolution Signed

The President signed, in the presence of the Senate, after its caption had been read, the following enrolled resolution:

S. C. R. No. 61, Providing for adjournment of the Legislature sine die on Wednesday, June 21, 1939, at 12:00 o'clock m.

#### Committee Substitute for House Bill 1078 on Second Reading

Senator Moore moved that the constitutional rule requiring bills to be read on three several days be suspended and that C. S. for H. B. No. 1078 be placed on its second reading and passage to third reading and on its third reading and final passage.

The motion prevailed by the following vote:

#### Yeas—31

Aikin  
Beck  
Brownlee  
Burns  
Collie  
Cotten  
Graves  
Hardin  
Head  
Hill  
Isbell  
Kelley  
Lanning  
Lemens  
Martin  
Metcalfe  
Moffett

Moore  
Nelson  
Pace  
Redditt  
Roberts  
Shivers  
Small  
Spears  
Stone  
of Galveston  
Stone  
of Washington  
Sulak  
Van Zandt  
Weinert  
Winfield

On motion of Senator Moore and by unanimous consent, Senate Rule 48 was suspended, and the regular

order of business was suspended to permit consideration of H. B. No. 1078 at this time.

The President laid before the Senate on its second reading and passage to third reading:

H. B. No. 1078, A bill to be entitled "An Act permitting cities of more than 285,000 inhabitants to make improvements on highways or roads outside the limits of such city provided such improvements do not extend more than one hundred and fifty feet from such city limits; and declaring an emergency."

The bill was read second time and was passed to third reading.

#### Committee Substitute for House Bill 1078 on Third Reading

The President then laid C. S. for H. B. No. 1078 before the Senate on its third reading and final passage.

The bill was read third time and was passed.

#### House Bill 1130 on Second Reading

On motion of Senator Winfield and by unanimous consent, the regular order of business was suspended to permit consideration of H. B. No. 1130 at this time.

The President laid before the Senate on its second reading and passage to third reading:

H. B. No. 1130, A bill to be entitled "An Act releasing all penalty and interest accrued on ad valorem city and independent school district taxes which were delinquent on July 1, 1938, in all cities in this State having a population of not less than one hundred thousand (100,000) nor more than one hundred twenty thousand (120,000) by the last preceding Federal Census, and in which the city council shall by proper resolution so determine, etc.; and declaring an emergency."

The bill was read second time and was passed to third reading.

#### House Bill 1130 on Third Reading

Senator Winfield moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 1130 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—31

Aikin	Moore
Beck	Nelson
Brownlee	Pace
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Graves	Small
Hardin	Spears
Head	Stone
Hill	of Galveston
Isbell	Stone
Kelley	of Washington
Lanning	Sulak
Lemens	Van Zandt
Martin	Weinert
Metcalf	Winfield
Moffett	

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—29

Aikin	Moffett
Beck	Moore
Brownlee	Nelson
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Graves	Small
Hardin	Spears
Head	Stone
Hill	of Galveston
Isbell	Stone
Kelley	of Washington
Lanning	Sulak
Lemens	Van Zandt
Martin	Winfield
Metcalf	

Nays—1

Pace

Absent

Weinert

#### Bills and Resolutions Signed

The President signed, in the presence of the Senate, after their captions had been read, the following enrolled bills and resolutions:

H. B. No. 132, "An Act making it unlawful for any attorney at law, attorney in fact, or any other person, firm, corporation, or association of persons whatsoever to charge a fee for any services of any character or kind that he might render in behalf

of a person or persons who might now or at any time hereafter be eligible for any Social Security Benefits as provided by the laws of Texas and/or the United States; declaring it to be unlawful for any such attorney in fact, or any other person, firm, corporation, or association of persons whatsoever to advertise, hold himself out, or solicit fees in behalf of such efforts or services; prescribing penalty for violation of the provisions of this Act; making provisions for certain organizations; repealing all laws, or parts of laws in conflict herewith, and declaring an emergency."

S. B. No. 171, "An Act providing for voluntary apprenticeship to open to young people the opportunity to obtain training that will equip them for profitable employment and citizenship; to set up, as a means to this end, a program of voluntary apprenticeship under approved apprentice agreements providing facilities for their training and guidance in the arts and crafts of industry and trade, with parallel instruction in related and supplementary education; to promote employment opportunities for young people under conditions providing adequate training and reasonable earnings; to relate the supply of skilled workers to employment demands; to establish standards for apprentice training; to establish an Apprenticeship Council and local and State joint apprenticeship committees to assist in effectuating the purposes of this Act; to provide for a Director of Apprenticeship within the Bureau of Labor Statistics; to provide for reports to the Legislature and to the public regarding the status of apprentice training in the State; to establish a procedure for the determination of apprentice agreement controversies; and to accomplish related ends."

S. B. No. 488, "An Act to amend Section 1 of S. B. 275, of the Acts of the Forty-sixth Legislature, Regular Session of 1939, and to provide that all processes and writs issued and served and recognizances and bonds and undertakings entered into before this Act takes effect and made returnable to the 87th Judicial District Court in Limestone, Freestone, Anderson and Leon Counties, shall be considered as returnable to the next succeeding term of the 87th Judicial District Court after this Act takes



effect and to provide that all Grand and Petit Juries drawn and selected under the existing laws, in either Anderson, Limestone, Freestone or Leon Counties shall be considered as legally drawn and selected for the next succeeding term of the District Court of their respective counties after the taking effect of this Act and declaring an emergency."

S. B. No. 485, "An Act to validate all ad valorem tax levies and assessments heretofore made by incorporated cities and towns in the State of Texas having a population of not less than 3,450 inhabitants and not more than 3,455 according to the last Federal Census, which levies and assessments are void or unenforceable because of the failure of the governing body of each respective incorporated city and town to make such levy by ordinance and which levies and assessments of property are void or unenforceable because of the failure of the tax assessor and collector of each respective incorporated city and town to make and prepare the proper assessment rolls and reports and which levies and assessments are void or unenforceable because of the failure of such tax assessor and collector to make and prepare current tax rolls as required by the statutes of this State; providing this Act shall not validate any levies and assessments for ad valorem taxes where the validity of such levy and assessment has been contested in any pending suit; and declaring an emergency."

H. C. R. No. 188, Authorizing the Enrolling Clerk to make certain changes in H. B. No. 387.

H. C. R. No. 192, In memory of Honorable Richard W. Mayfield.

#### Committee Substitute for House Bill 912 on Passage to Third Reading

(Special Order)

The Senate resumed consideration of the pending special order, same being C. S. H. B. No. 912, amending the Liquor Control Act, on its passage to third reading; with amendment by Senator Stone of Galveston pending.

Question recurring on the amendment, yeas and nays were demanded.

The amendment was adopted by the following vote:

#### Yeas—22

Aikin	Roberts
Brownlee	Shivers
Graves	Small
Hardin	Spears
Hill	Stone
Isbell	of Galveston
Kelley	Stone
Martin	of Washington
Metcalf	Sulak
Moore	Van Zandt
Pace	Weinert
Redditt	Winfield

#### Nays—7

Beck	Lanning
Burns	Moffett
Collie	Nelson
Cotten	

#### Absent

Head	Lemens
------	--------

Senator Small offered the following amendment to the bill:

Amend C. S. for H. B. No. 912, as amended, by the insertion of a new section to be designated as Section 6-A, reading as follows:

#### Section 6-A.

That Sections 29, 30 and 42, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature, be amended so as to hereafter read as follows:

Sec. 29. Any room, building, boat, structure, or place of any kind where alcoholic beverages are sold, bartered, manufactured, stored, or possessed in violation of this Act, or under conditions and circumstances contrary to the purposes of this Act, or any room, building, boat, structure, or place open to the public, or where commodities or services are sold or rendered to the public, and where persons are permitted to resort for the purposes of drinking alcoholic beverages of any type or alcoholic content not legalized in the areas where such place is situated under the local option provisions of this Act, and all such beverages and all property kept and used in said place, hereby are declared to be a common nuisance; and any person who maintains or assists in maintaining such common nuisance shall be guilty of a violation of this Act. The Attorney

General, the County Attorney, or the District Attorney in the county wherein such nuisance exists or is kept or maintained may maintain an action by injunction in the name of the State of Texas to abate and temporarily and permanently enjoin such nuisance. Such proceedings shall be guided by the rules of other injunction proceedings, except that the plaintiff shall not be required to give bond in such action and upon final judgment against the defendant the court shall order that said room, house, building, structure, boat, or place of any kind shall be closed for a period of one year, or closed for a part of said time and until the owner, lessee, tenant, or occupant thereof shall give bond with sufficient surety to be approved by the court making the order in the penal sum of not less than One Thousand (\$1,000.00) Dollars, payable to the State and conditioned that alcoholic beverages will not thereafter be manufactured, bartered, possessed, stored, or sold, or otherwise disposed of therein, or kept thereon or therein, with the intent to sell or otherwise dispose of contrary to law, that the provisions of this Act will not be violated, that no person shall be permitted to resort thereon or therein for the purpose of drinking alcoholic beverages of any type or alcoholic content not legalized in the area where such place is situated under the local option provisions of this Act, and that he will pay all fines, costs, and damages assessed against him for any violation of this Act. If any condition of such bond be violated, the whole amount may be recovered as a penalty for the use of the county wherein the premises are situated.

Sec. 30. (a). All alcoholic beverages and the containers thereof, equipment and other property forfeited to the State as nuisances, unless otherwise herein provided, and all illicit beverages and the containers thereof forfeited to the State, shall be turned over to the Board for public or private sale in such place or manner as it may deem best; provided, that the Board shall exercise diligent effort to obtain the best available price for anything thus sold; provided, further, that any bill of sale executed by the Board or Administrator shall convey a good and valid title to the purchaser as to any such property sold. The Board shall sell alcoholic

beverages only to the holders of qualified permits or licenses. No alcoholic beverages unfit to be sold for public consumption or of illicit manufacture may be sold by the Board, but are declared a nuisance per se and may be destroyed by the Board. The certificate of any qualified chemist shall be accepted by the Board as evidence of unfitness of such alcoholic beverages.

(b). All moneys derived from the sale of any beverages or property shall be placed in a separate fund in the State Treasury, against which may be drawn all expenses incurred in the storage, assembling, custody, and sale thereof, and for other expenses which may be incurred by the Board in the investigation of, the obtaining of evidence and acting against any violations of the provisions of this Act. All money remaining in said fund on each August 31st not obligated under the provisions hereof shall be transferred by the State Treasurer to the Old Age Assistance Fund for the benefit thereof. The funds herein appropriated shall be independent of and in addition to any other appropriations.

Sec. 42. (a). All alcoholic beverages declared by this Act to be a nuisance, and all illicit beverages as defined by this Act, and all equipment, fixtures, and property kept and used in the maintenance of an alleged nuisance may be seized without a warrant by any agent or employee of the Board, or by any peace officer, and any person found in the possession or in charge thereof may be arrested without a warrant. No alcoholic beverages or articles so seized shall be replevied, but shall be stored by the Texas Liquor Control Board, or by the Sheriff of the county wherein the seizure was made, to be held for final action of the court as hereafter provided.

(b). It shall be the duty of the Attorney General, the District Attorney, and the County Attorney, or any of them, when notified by the officer making the seizure, or by the Texas Liquor Control Board, that such seizure has been made to institute a suit for forfeiture of such alcoholic beverages and property, such suit to be brought in the name of the State of Texas in any court of competent jurisdiction in the county wherein such seizure was made. Notice of pendency of such suit shall be

served in the manner prescribed by law and the case shall proceed to trial as other civil cases. If upon the trial of such suit it is found that alcoholic beverages or property are a nuisance or were used or kept in maintaining a nuisance, under the terms of this Act, or that the alcoholic beverage is illicit, as defined by this Act, then the court trying said cause shall render judgment forfeiting the same to the State of Texas and ordering the same disposed of as provided for by Section 30 of this Article. The costs of such proceedings shall be paid by the Board, out of funds derived under the provisions of said Section 30, or from any other fund available to the Board for such purpose.

(c). As to any property or articles upon which there may be a lien, by a bona fide lien holder, the holder of such may intervene to establish his rights and shall be required to show such lien to have been granted in a bona fide manner and without knowledge of the fact at the time of creation of the lien, that any article or property upon which such lien exists had been used or was to be used in violation of this Act. If the holder of any such lien shall intervene, then the Court trying said cause shall render judgment forfeiting the same to the State of Texas, and authorizing the issuance of an order of sale directed to the Sheriff or any constable of the county wherein the property was seized, commanding such officer to sell said property in the same manner as personal property is sold under execution. The court may order such property sold in whole or in part as it may deem proper and the sale shall be conducted at the court house door. The money realized from the sale of such property shall be applied first to the payment of the costs of suit and expenses incident to the sale and after such expenses have been approved and allowed by the court trying the case, then the further proceeds of such sale shall be used to pay all such liens according to priorities, and any remaining proceeds shall be paid to the Board to be allocated as provided in Section 30 hereof. All such liens against property sold under this Section shall be transferred from the property to the proceeds of its sale.

(d). The sheriff executing said sale shall issue a bill of sale and cer-

tificate to the purchaser of said property, and such bill of sale or certificate shall convey valid and unimpaired title to such property.

Senator Martin moved to table the amendment.

Yeas and nays were demanded, and the motion to table prevailed by the following vote:

Yeas—15

Beck	Spears
Brownlee	Stone
Graves	of Galveston
Kelley	Stone
Martin	of Washington
Moore	Sulak
Pace	Weinert
Roberts	Winfield
Shivers	

Nays—14

Aikin	Lemens
Burns	Metcalfe
Collie	Moffett
Cotten	Nelson
Hill	Redditt
Isbell	Small
Lanning	Van Zandt

Absent

Hardin	Head
--------	------

Senator Small offered the following amendment to the bill:

Amend Committee Substitute for House Bill No. 912 by the insertion of a new section to be designated as Section 11-A, reading as follows:

Section 11-A.

Sec. —. That Section 6, Article II, Chapter 467, Acts of the Second Called Session of the 44th Legislature, as amended by House Bill No. 5, Acts of the Regular Session of the 45th Legislature, be amended so as to hereafter read as follows:

Sec. 6. (a). The application of any person desiring to be licensed to manufacture, distribute or sell beer shall be filed in duplicate with the County Judge, who shall set same for a hearing at a date not less than five (5) nor more than ten (10) days from the filing of same.

(b). Upon the filing of any application for a license, the County Clerk shall give notice thereof by posting

at the Courthouse door a written notice of the filing of such petition, and the substance thereof, and the date of hearing upon such petition. Any citizen shall be permitted to contest the facts stated in said petition and the applicant's right to secure license upon giving security for all costs which may be incurred in such contest should this case be decided in favor of the applicant; provided, however, no officer of a county or any incorporated city or town shall be required to give bond for such costs.

(c). If upon hearing upon the petition of any applicant for a license, the County Judge finds the facts stated therein to be true and has no other lawful reason for denying the application, he shall enter an order so certifying, and a copy of said order shall be delivered to the applicant; applicant shall thereupon present the same to the Assessor and Collector of Taxes of the county wherein the application is made and shall pay to the Assessor and Collector of Taxes the fee specified in this Article for the class of license applied for; the Assessor and Collector of Taxes shall thereupon report to the Texas Liquor Control Board upon a form prescribed by said Board certifying that the application for license has been approved and all required fees paid, and such other information as may be required by the Board, and to such certificate shall be attached a copy of the original application for license. Upon receiving such report or certification from the Assessor and Collector of Taxes, it shall be the duty of the Board or Administrator to issue the license accordingly, if it is found that the applicant is entitled to a license and there are no legal reasons why a license should not be issued, which license shall show the class of business the applicant is authorized to conduct, amount of fees paid, date, correct address of the place of business, and date of expiration, and such other information as the Board shall deem proper; provided, however, that the Board or Administrator may refuse to issue any such license if in possession of information from which it is determined that any statement contained in the application therefor is false, untrue or misleading. Upon any refusal by the Board or Administrator, applicant shall be entitled to refund of any license fee paid to the

County Assessor and Collector of Taxes at the time of filing his application.

(d). If upon hearing upon the petition of any applicant for a license the County Judge finds any facts stated therein to be untrue, the application shall be denied; and it shall be sufficient cause for the County Judge to refuse to grant any license when he has reason to believe that the applicant will conduct his business of selling beer at retail in a manner contrary to law or in any place or manner conducive to violation of the law or likely to result in any jeopardy to the peace, morals, health or safety of the general public. No license shall be approved or issued for the conduct of a business at any place, building or premises for which such license is sought if within the period of one year immediately preceding the filing of such application as many as three orders of cancellation have been entered by the Board or Administrator against a license or licenses at such place, building or premises, which said orders have become final. It shall be the duty of the Board or Administrator to in writing notify the County Judge of any order of cancellation upon a license within his jurisdiction. In order that the owner of any such property may be informed of conduct thereon, the Board shall, where practicable, transmit copy of each order of cancellation which may be entered to the owner of the property involved. In the granting or withholding of any license to sell beer at retail, the County Judge in forming his conclusions shall give due and proper consideration to any recommendations made by the District or County Attorney or the Sheriff of the county, and the Mayor and Chief of Police of any incorporated city or town wherein the applicant proposes to conduct his business and to any recommendations made by representatives of the Board.

(e). In the event the County Judge, Texas Liquor Control Board or Administrator denies the application for a license, he shall enter his judgment accordingly, and the applicant may within thirty (30) days thereafter appeal to the District Court of the county where such application is made, and such District Court may hear and determine such appeal in term time or vacation and under the same rules and procedure

as provided in Section 14, Article I, of this Act. In the event the judgment of the District Court shall be favorable to the applicant and an appeal is taken, a certified copy of the judgment shall be presented to the Assessor and Collector of Taxes who shall thereupon accept the fees required and make report to the Board in the manner required upon like orders issued by the County Judge. In the event the license is finally issued upon orders of the District Court and, upon appeal, the order of the District Court be reversed, then the mandate of the appellate court shall, without further proceedings, invalidate and make void the license authorized by order of the District Court, and the holder thereof shall, upon application therefor, be entitled to a refund of the proportionate amount of unexpired fees. So much of the proceeds collected for license fees under this Article as may be necessary for refunds herein provided for are appropriated for that purpose. Any person appealing from a judgment or order under the provisions of this Section shall give bond for all costs incident to such appeal and shall be required to pay such costs if the judgment on appeal is unfavorable to the applicant, but not otherwise; provided, however, no such bond shall be required upon appeals filed on behalf of the State.

(f). Every person making application for an original license of any class herein provided, except Branch Licenses and Temporary Licenses, shall be subject at the time of the hearing thereon to a fee of Five (\$5.00) Dollars, which fee shall, by the County Clerk, be deposited in the County Treasury and the applicant shall be liable for no other fees except said application fee and the annual license fee required of him by this Act.

(g). No person shall be authorized to sell beer during the pendency of his original application for a license, and no official shall advise or suggest that such action would be lawful or permitted.

Question—Shall the amendment be adopted?

Senator Moore moved that the Senate adjourn until 10:00 o'clock a. m. tomorrow.

Yeas and nays were demanded, and the motion was lost by the following vote:

## Yeas—8

Burns  
Lanning  
Martin  
Moore  
Pace

Redditt  
Stone  
of Washington  
Weinert

## Nays—21

Aikin  
Beck  
Brownlee  
Cotten  
Graves  
Hardin  
Head  
Isbell  
Kelley  
Lemens  
Metcalf

Moffett  
Nelson  
Roberts  
Shivers  
Small  
Spears  
Stone  
of Galveston  
Sulak  
Van Zandt  
Winfield

## Absent

Collie

Hill

Senator Metcalfe moved the previous question on the amendment and the passage of the bill to third reading, and the motion was duly seconded.

The Senate refused to order the main question at this time by the following vote:

## Yeas—14

Brownlee  
Hardin  
Head  
Isbell  
Kelley  
Lemens  
Martin  
Metcalf

Moffett  
Nelson  
Roberts  
Spears  
Stone  
of Galveston  
Winfield

## Nays—15

Aikin  
Beck  
Burns  
Collie  
Cotten  
Graves  
Lanning  
Moore

Pace  
Redditt  
Shivers  
Small  
Stone  
of Washington  
Van Zandt  
Weinert

## Absent

Hill

Sulak

The amendment by Senator Small then was adopted.

Senator Van Zandt offered the following amendment to the bill:

Amend Committee Substitute for House Bill No. 912 as amended by

inserting the following in lieu of Section 15a thereof:

"Sec. 15a. That subsection 19 (1) (b), Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature as amended by Section 50 of House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature and as further amended by Senate Bill No. 20, Acts of the First Called Session of the Forty-fifth Legislature, be now amended so as to hereafter read as follows:

"(b) Sold beer to any person who is intoxicated."

Senator Nelson moved the previous question on the amendment and the passage of the bill to third reading and the motion was duly seconded.

The Senate refused to order the main question at this time by the following vote:

Yeas—10

Graves	Moffett
Hardin	Nelson
Head	Spears
Isbell	Stone
Kelley	of Galveston
Metcalf	

Nays—18

Aikin	Redditt
Beck	Shivers
Brownlee	Small
Burns	Stone
Collie	of Washington
Cotten	Sulak
Lanning	Van Zandt
Martin	Weinert
Moore	Winfield
Pace	

Absent

Hill	Roberts
Lemens	

The amendment was adopted.

Question recurring on the passage of the bill to third reading, yeas and nays were demanded.

The bill was passed to third reading by the following vote:

Yeas—14

Brownlee	Kelley
Cotten	Martin
Graves	Metcalf
Hardin	Moore

Small	Sulak
Spears	Van Zandt
Stone	Winfield
of Galveston	

Nays—12

Aikin	Nelson
Burns	Pace
Collie	Redditt
Head	Roberts
Lanning	Shivers
Moffett	Weinert

Absent

Beck	Lemens
Hill	Stone
Isbell	of Washington

Motion to Suspend Constitutional Rule

Senator Small moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 912 be placed on its third reading and final passage.

The motion was lost by the following vote (not receiving the necessary four-fifths vote):

Yeas—22

Brownlee	Nelson
Burns	Roberts
Collie	Shivers
Graves	Small
Hardin	Spears
Head	Stone
Isbell	of Galveston
Kelley	Stone
Lemens	of Washington
Martin	Sulak
Metcalf	Van Zandt
Moffett	Winfield

Nays—8

Aikin	Moore
Beck	Pace
Cotten	Redditt
Lanning	Weinert

Absent

Hill

Message from the House

A Clerk from the House was recognized to present the following message:

Hall of the House of Representatives,  
Austin, Texas, June 13, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: I am directed by the House

to inform the Senate that the House has passed the following:

S. B. No. 179, A bill to be entitled "An Act to amend Sections 13 and 15 of House Bill No. 749, Chapter 240, Acts of the Regular Session of the Forty-fourth Legislature, requiring distributors or dealers of motor fuel upon which a refund of the tax may be authorized to secure permit or license from the State Comptroller; providing for the control of invoices of exemption by the State Comptroller, and declaring an emergency." (With amendments.)

The House has adopted the conference committee report on Senate Bill No. 240 by a vote of 112 ayes and 1 noes.

The House has adopted the conference committee report on House Bill No. 190 by a vote of 103 ayes and 9 noes.

The House has concurred in Senate amendments to House Bill No. 1040 by a vote of 104 yeas and 0 noes.

The House has concurred in Senate amendments to House Bill No. 1126 by a vote of 114 yeas, 3 noes.

The House has concurred in Senate amendments to House Bill No. 982 by a vote of 125 yeas, 0 noes.

The House has concurred in Senate amendments to House Bill No. 1025 by a vote of 121 yeas, 0 noes.

The House has concurred in Senate amendments to H. B. No. 1078 by a vote of 116 yeas and 0 noes.

Respectfully submitted,

E. R. LINDLEY,  
Chief Clerk, House of Representatives.

#### Conference Committee on House Bill 1104

Senator Sulak called up from the President's table, for consideration at this time, the request of the House for a conference committee on H. B. No. 1104.

Senator Sulak moved that the request of the House be granted.

The motion prevailed.

Accordingly, the President appointed the following conferees on the bill

on the part of the Senate: Senators Sulak, Stone of Washington, Hill, Lanning and Lemens.

#### Report of Conference Committee on House Bill 926

Senator Aikin submitted at this time the following report of the Conference Committee on H. B. No. 926:

Austin, Texas,  
June 12, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Hon. R. Emmett Morse, Speaker of the House.

Sirs: We, your Conference Committee appointed to adjust the differences between the House and Senate on H. B. No. 926, beg leave to submit the following report and recommend that it do pass in the form hereto attached.

AIKIN,  
VAN ZANDT,  
WINFIELD,  
STONE  
of Washington.  
ISELL,

On the part of the Senate.

MORRIS,  
HARRIS,  
HAMILTON,  
SHELL,  
LONDON,

On the part of the House.

By Alsop.

H. B. No. 926.

#### A BILL TO BE ENTITLED

An Act appropriating the sum of Nine Hundred Seventy-seven Thousand, Three Hundred Thirty-two (\$977,332.00) Dollars per year, or so much thereof as may be necessary, for the next biennium beginning September 1, 1939, and ending August 31, 1941, from the General Revenue Fund for the purpose of promoting public school interests and assisting local districts in the teaching of vocational agriculture, home economics, trades and industries, general rehabilitation, and rehabilitation for crippled children according to the Federal laws governing vocational education, all of which shall be matched by Federal funds; providing for the administration, attaching conditions, regulations, and limitations relative

thereto, making various allocations of said appropriation; authorizing aid to such schools in accordance with the conditions specified herein; providing for certain regulations concerning qualification of teachers; providing all costs of administering funds named in this Act shall be paid out of monies appropriated in this Act under the authority of the State Superintendent of Public Instruction under the direction of the State Board of Education; defining the powers of the State Board of Education and the State Superintendent; declaring the rule in event any provision of this Act is unconstitutional or invalid; repealing all laws or parts of laws in conflict herewith; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. For the purpose of promoting public school interest and matching Federal funds, there is hereby appropriated out of the General Revenue Fund Nine Hundred Seventy-seven Thousand, Three Hundred Thirty-two (\$977,332.00) Dollars, or so much thereof as may be necessary for the school year ending August 31, 1940, and Nine Hundred Seventy-seven Thousand, Three Hundred Thirty-two (\$977,332.00) Dollars, or so much thereof as may be necessary for the school year ending August 31, 1941, to be allotted and expended by the State Superintendent of Public Instruction under the direction of the State Board of Education.

Sec. 2. The funds appropriated in this Act shall be expended in accordance with all Federal laws and regulations governing vocational education, providing that in schools where equalization funds are received, vocational agriculture, homemaking, trades and industries, and distributive education shall comply with such regulations as set forth in the Equalization Bill.

Sec. 3. Provided that no salary shall be paid for more than nine (9) months except superintendents of accredited schools entitled to six (6) teachers or more. Provided further that vocational agriculture teachers may be paid for twelve (12) months when the superintendent of the school in which they are employed has certified to the State Superintendent of Public Instruction that such teacher is actually engaged in teaching this

work twelve (12) months; and salaries may be paid to vocational home economics teachers not to exceed ten (10) months in any one year. Provided further that no salary shall be paid to trial teachers in vocational schools in excess of Eighteen Hundred (\$1,800.00) Dollars per year for the first two years, and that the salary of any other teacher for this work shall not be consummated until same is approved by the State Department of Education.

Sec. 4. As hereby allocated and set aside the following amounts for the following purposes:

Vocational Agriculture: Three Hundred and Eight Thousand (\$308,000.00) Dollars;

Vocational Home Economics: Two Hundred Forty-two Thousand (\$242,000.00) Dollars;

Trades and Industries: One Hundred Fifty-seven Thousand, Nine Hundred Fifty-eight (\$157,958.00) Dollars;

Rehabilitation: Ninety-four Thousand, Three Hundred Seventy-four (\$94,374.00) Dollars;

Rehabilitation for Crippled Children: One Hundred Seventy-five Thousand (\$175,000.00) Dollars.

Provided the funds herein appropriated for vocational services may be re-allocated with the consent of each of the Directors and with the approval of the State Superintendent of Public Instruction.

Sec. 5. The fact that many schools in this State are desirous of having the services of vocational agriculture teachers and other teachers mentioned in this Act, and the further fact that if these schools receive such services it is absolutely necessary that this appropriation be passed, creates an emergency and an imperative public necessity that the rule requiring bills to be read on three several days be suspended, and the same is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

#### Bill Signed

The President signed, in the presence of the Senate, after their captions had been read, the following enrolled bill:

S. B. No. 240, "An Act regulating fishing in Burnet, Llano, San Saba, and Travis Counties; providing for size and bag limits of fish caught or



taken from waters in such counties and making it unlawful to take or catch fish from the waters of Buchanan, Inks, Marshall Ford, Marble Falls, and Tom Miller Lakes except by certain means or the use of certain devices; providing for a closed season in such lakes and make exceptions; regulating the sale or transportation of minnows; providing a universal fishing license for such counties; and providing a penalty and declaring an emergency."

#### Message from the House

A Clerk from the House was recognized to present the following Hall of the House of Representatives, Austin, Texas, June 13, 1939.  
Hon. Coke R. Stevenson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has refused to concur in Senate amendments to H. B. No. 688 and requests the Senate for the appointment of a free conference committee to adjust the differences between the two houses. The following are appointed as conferees on the part of the House: Tarwater, Keith, Hankamer, Petsch, Thornton.

The House has refused to concur in Senate amendments to House Bill No. 723 and has requested the appointment of a conference committee to consider the differences between the two Houses. The following have been appointed on part of the House: Fielden, Colson, Morris, Harrell of Bastrop, Cockrell.

Respectfully submitted,

E. R. LINDLEY,  
Chief Clerk, House of Representatives.

#### Conference Committee on House Bill 723

Senator Head called up from the President's table, for consideration at this time, the request of the House for a Conference Committee on H. B. No. 723.

Senator Head moved that the request of the House be granted.

The motion prevailed.

Accordingly, the President appointed the following conferees on the bill on the part of the Senate: Senators Head, Lanning, Stone of Washington, Lemens and Weinert.

#### Conference Committee on House Bill 688

Senator Pace called up from the President's table, for consideration at this time, the request of the House for a conference committee on H. B. No. 688.

Senator Pace moved that the request of the House be granted.

The motion prevailed.

Accordingly, the President appointed the following conferees on the bill on the part of the Senate: Senators Van Zandt, Pace, Redditt, Small and Weinert.

#### Report of Conference Committee on House Bill 1104

Senator Sulak submitted at this time the following report of the conference committee on H. B. No. 1104:

Austin, Texas,  
June 13, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Hon. R. Emmett Morse, Speaker of the House of Representatives.

Sirs: We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on House Bill No. 1104, have had the same under consideration and we recommend to the Senate and to the House of Representatives that the bill pass in the form attached hereto.

Respectfully submitted,

SULAK,  
STONE of Washington,  
LANNING,  
LEMENS,

On the part of the Senate.

BUNDY,  
CELAYA,  
ISAACKS  
WINFREE,

On the part of the House.

H. B. No. 1104.

#### A BILL

#### TO BE ENTITLED

An Act fixing the compensation for County Commissioners in certain counties; providing the manner of payment and prescribing the funds from which it shall be paid; re-

pealing all laws in conflict with; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. In all counties having a population of not less than twenty-seven thousand five hundred and forty-five (27,545), not more than twenty-seven thousand five hundred and fifty-five (27,555), according to the last preceding Federal Census, the salary of the County Commissioners shall be eighteen hundred (\$1,800.00) dollars per year, provided that such salary shall be paid in twelve (12) equal monthly installments, said money to be paid out of the General Funds of said counties, and/or Road and Bridge Funds of the respective precincts served by said Commissioners.

Sec. 2. All laws or parts of laws in conflict with the provisions of this Act are hereby expressly repealed to the extent of such conflict.

Sec. 3. The fact that County Commissioners in certain counties are underpaid and their duties require higher salaries, creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days in each House be suspended, and the same is hereby suspended, and this Act shall take effect and be enforced from and after its passage, and it is so enacted.

#### Report of Conference Committee on House Bill 256 Adopted

Senator Roberts called for the consideration at this time of the report of the Conference Committee on H. B. No. 256, the Eleemosynary Appropriation Bill, which report was submitted on yesterday and which is printed in full in the House Journal of Thursday, June 8, 1939.

The President laid the report before the Senate.

Question—Shall the report be adopted?

The report was adopted.

#### Bills Signed

The President signed, in the presence of the Senate, after their captions had been read, the following enrolled bills:

H. B. No. 1050, "An Act to amend Chapter 3 of Title 128 of the Re-

vised Statutes of 1925, relating to water control and preservation districts by providing that lands in any such district lying within or adjoining the territorial limits of an incorporated city or town, which was not included in such district at time of the organization of such district, and which lands have been subdivided into town lots and blocks, with streets or other thoroughfares dedicated to the use of the public, and of which a map and such dedication has been duly filed for record with the County Clerk of the county in which lands are situated, may be discontinued as part of such district; providing that the Board of Directors may pass resolutions excluding such territory; providing that the owners of such lands may petition the district for an election to determine the question of whether the lands shall be withdrawn, and for the holding of such an election and providing that lands so withdrawn shall no longer be entitled to be served with water from the irrigation system, and that such lands shall be charged with their pro rata part of existing indebtedness of the said district, and providing that the owner or owners of such land may pay the total of their pro rata at any time."

H. B. No. 526, "An Act authorizing the Commissioner of Agriculture of this State to establish and maintain quarantine regulations in order to prevent the introduction into or the spread within this State of pests and diseases for the protection of agricultural industry of this State and to provide for the inspection of things and plants with reference to such quarantine requiring persons to notify the Commissioner of Agriculture of the arrival of such things and plants against which a quarantine has been established and to hold them for inspection and providing for the disposal of such infected things or plants by the Commissioner of Agriculture and further providing the manner of declaring such quarantines and providing for investigation by the Commissioner of Agriculture in order to determine the existence of such pests and diseases and authorizing him to declare and enforce quarantine in order to prevent the spread thereof, and declaring an emergency."

H. B. No. 943, "An Act to amend Sections 1, 2, 3, 4, 6, 12, 21, 22,

and to repeal Sections 5, 7, 14 and 18, of an Act relating to the bonding and licensing of dealers in citrus fruit in the State of Texas and being House Bill No. 99 of the Acts of the Forty-fifth Legislature as amended by Senate Bill No. 24 of the Acts of the First Called Session of the Forty-fifth Legislature, providing that nothing in this Act shall be construed as affecting the anti-trust laws of this State, and should this Act in any manner affect said laws, the entire Act shall fall and be held for naught; providing a saving clause; and declaring an emergency."

H. B. No. 387, A bill to be entitled "An Act to amend Article 1970-314, Revised Civil Statutes of Texas, 1925, as amended by Acts, 1937, Forty-fifth Legislature, Regular Session, Chapter 457, by diminishing the jurisdiction of the County Court of Red River County, Texas, in certain criminal cases; and conforming the jurisdiction of the District Court of such County to such change; repealing all laws in conflict herewith, and declaring an emergency."

H. B. No. 249, "An Act concerning the liquidation, rehabilitation, reorganization or conservation of insurers doing business in more than one State, and placing same under the Board of Insurance Commissioners; providing for the appointment of a liquidator by the Board of Insurance Commissioners; defining certain words and phrases used in this Act; providing for the appointment of a liquidator of the Board as receiver for an insurer and outlining his duties as such receiver; providing for ancillary delinquency proceedings and providing method of filing claims of resident and non-resident claimants, outlining priority of various types of claims; defining powers of receivers and ancillary receivers, and declaring an emergency."

#### Message from the Governor

The President laid before the Senate, and had read, the following message:

Austin, Texas,  
June 13, 1939.

To the Members of the Senate of the Forty-sixth Legislature:

I ask the advice, consent and confirmation of the Senate to the following appointments:

To be Director-at-Large and Chairman of the Board of Directors of the Lower Concho River Water and Soil Conservation Authority:

(Three-year term beginning May 10, 1939):

G. Y. Lee of Eden, Concho County.

To be Members of the Board of Directors of the Lower Concho River Water and Soil Conservation Authority.

(Three-year term beginning May 10, 1939):

J. A. Waide of Paint Rock, Concho County;

S. F. Farmer of Eola, Concho County.

(Two-year term beginning May 10, 1939):

A. E. Gromatzky of Eden, Concho County;

W. B. Hardin of Salt Gap, McCulloch County;

Albert Schulz of Eola, Concho County.

(One-year term beginning May 10, 1939):

R. H. Dalton of Paint Rock, Concho County;

A. P. Freeman of Pasche, Concho County;

C. L. Stevens of Millersview, Concho County.

Respectfully submitted,  
W. LEE O'DANIEL,  
Governor of Texas.

The message was read and was referred to the Committee on Nominations of the Governor.

#### Motion to Take up House Bill No. 1009

Senator Moffett moved that the regular order of business be suspended, to permit consideration of H. B. No. 1009 at this time.

The motion was lost by the following vote (not receiving the necessary two-thirds vote):

## Yeas—17

Aikin	Moffett
Burns	Moore
Cotten	Pace
Graves	Redditt
Hardin	Roberts
Hill	Small
Isbell	Stone
Lanning	of Washington
Martin	Winfield

## Nays—12

Beck	Shivers
Brownlee	Spears
Collie	Stone
Head	of Galveston
Lemens	Sulak
Metcalf	Weinert
Nelson	

## Absent

Kelley	Van Zandt
--------	-----------

## Report of Conference Committee on House Bill 255 Adopted

Senator Roberts called for the consideration at this time of the report of the conference committee on H. B. No. 255, the educational appropriation bill, which report was submitted on yesterday, and which is printed in full in the House Journal of Thursday, June 8, 1939.

The President laid the report before the Senate.

Question—Shall the report be adopted?

The report then was adopted.

## Report of Conference Committee on Senate Bill 427 Adopted

Senator Roberts called for the consideration at this time of the report of the conference committee on S. B. No. 427, the departmental appropriation bill, which report was submitted on yesterday (June 12, 1939) and printed in full in the supplement to the Senate Journal of that day.

The President laid the report before the Senate.

Question—Shall the report be adopted?

Motion to Adjourn

(Senator Van Zandt in the Chair.)

Senator Cotten moved that the Senate adjourn until 10:00 o'clock a. m. tomorrow.

Yeas and nays were demanded, and the motion was lost by the following vote:

## Yeas—10

Beck	Roberts
Burns	Shivers
Cotten	Stone
Moore	of Washington
Pace	Weinert
Redditt	

## Nays—19

Aikin	Metcalf
Brownlee	Moffett
Collie	Nelson
Graves	Small
Hardin	Spears
Hill	Stone
Isbell	of Galveston
Kelley	Sulak
Lanning	Van Zandt
Lemens	Winfield

## Absent

Head	Martin
------	--------

Senator Hill moved the previous question on the report, and the motion was duly seconded.

The main question was ordered by the following vote:

## Yeas—18

Beck	Metcalf
Brownlee	Moffett
Graves	Nelson
Hardin	Roberts
Hill	Small
Isbell	Spears
Kelley	Stone
Lanning	of Galveston
Lemens	Sulak
Martin	

## Nays—12

Aikin	Shivers
Burns	Stone
Collie	of Washington
Cotten	Van Zandt
Moore	Weinert
Pace	Winfield
Redditt	

## Absent

Head
------

Question then recurring on the report, it was adopted.

## Record of Votes

Senators Beck, Burns, Cotten, Pace, Metcalf, Sulak, Hill, Nelson, Hardin and Isbell asked to be recorded as

voting "nay" on the adoption of the report.

### House Bill 912 on Third Reading

Senator Small moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 912 be placed on its third reading and final passage.

The motion prevailed by the following vote:

#### Yeas—24

Beck	Nelson
Brownlee	Roberts
Burns	Shivers
Collie	Small
Graves	Spears
Hardin	Stone
Hill	of Galveston
Isbell	Stone
Kelley	of Washington
Lemens	Sulak
Martin	Van Zandt
Metcalf	Weinert
Moffett	Winfield

#### Nays—6

Aikin	Pace
Cotten	Redditt
Lanning	

#### Present—Not Voting

Moore

#### Absent

Head

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time.

Senator Metcalfe moved the previous question on the passage of the bill, and the motion was duly seconded.

The Senate refused to order the main question at this time by the following vote:

#### Yeas—15

Brownlee	Nelson
Graves	Roberts
Hardin	Small
Hill	Spears
Isbell	Stone
Kelley	of Galveston
Lanning	Sulak
Moffett	Van Zandt

#### Nays—15

Aikin	Moore
Beck	Pace
Burns	Redditt
Collie	Shivers
Cotten	Stone
Lemens	of Washington
Martin	Weinert
Metcalf	Winfield

#### Absent

Head

Senator Hill moved the previous question on the passage of the bill, and the motion was duly seconded.

Yeas and nays were demanded, and the main question was ordered by the following vote:

#### Yeas—17

Brownlee	Metcalf
Collie	Moffett
Graves	Nelson
Hardin	Small
Hill	Spears
Isbell	Stone
Kelley	of Galveston
Lanning	Sulak
Lemens	Van Zandt

#### Nays—13

Aikin	Redditt
Beck	Roberts
Burns	Shivers
Cotten	Stone
Martin	of Washington
Moore	Weinert
Pace	Winfield

#### Absent

Head

Question then recurring on the passage of the bill, yeas and nays were demanded.

The roll was called on the passage of the bill, and the vote announced: Yeas 16, nays 14.

Senator Burns called for a verification of the vote.

The roll of those recorded as voting "yea" was called, and found correct as first announced.

The roll of those recorded as voting "nay" was called and found correct as first announced.

The verified vote stood as first announced, and the bill was passed by the following vote:

## Yeas—16

Brownlee	Small
Graves	Spears
Hardin	Stone
Hill	of Galveston
Isbell	Stone
Kelley	of Washington
Martin	Sulak
Metcalf	Van Zandt
Nelson	Winfield

## Nays—14

Aikin	Moffett
Beck	Moore
Burns	Pace
Collie	Redditt
Cotten	Roberts
Lanning	Shivers
Lemens	Weinert

## Absent

Head

## Adjournment

Senator Hardin moved that the Senate adjourn until 10:00 o'clock a. m. tomorrow.

The motion prevailed; and the Senate, accordingly, at 6:30 o'clock p. m., adjourned until 10:00 o'clock a. m. tomorrow.

## EIGHTY-SIXTH DAY

(Wednesday, June 14, 1939)

The Senate met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by President Stevenson.

The roll was called, and the following Senators were present:

Aikin	Moore
Beck	Nelson
Brownlee	Pace
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Graves	Small
Hardin	Spears
Head	Stone
Hill	of Galveston
Isbell	Stone
Kelley	of Washington
Lanning	Sulak
Lemens	Van Zandt
Martin	Weinert
Metcalf	Winfield
Moffett	

The invocation was offered by the Chaplain.

On motion of Senator Aikin, and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

## Report of Standing Committee

Senator Weinert submitted the following report of the Committee on State Affairs:

Austin, Texas,  
June 14, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

H. C. R. No. 162, by Montgomery, "Granting A. C. Petersen permission and authority to present his claim to the Compensation Claim Board,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

WEINERT, Chairman.

## House Bill 231 on Second Reading

Senator Hardin moved that Senate Rule 11b be suspended in order that he might move at this time that the regular order of business be suspended and H. B. No. 231 laid before the Senate on its second reading and passage to third reading.

The motion prevailed by the following vote:

## Yeas—19

Aikin	Metcalf
Brownlee	Moffett
Collie	Nelson
Graves	Roberts
Hardin	Shivers
Hill	Spears
Isbell	Stone
Kelley	of Galveston
Lanning	Sulak
Lemens	Winfield
Martin	

## Nays—9

Burns	Small
Cotten	Stone
Moore	of Washington
Pace	Van Zandt
Redditt	Weinert

## Absent

Beck

Head